

GALLATIN COUNTY/ BOZEMAN AREA ZONING REGULATION



DRAFT REGULATION

OCTOBER 2006

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GALLATIN COUNTY/BOZEMAN AREA ZONING REGULATION

ARTICLE I GENERAL PROVISIONS

Section 1: Title, Creation and Adoption

- 1.01** This Regulation shall be known as the Gallatin County/Bozeman Area Zoning Regulation (Regulation). It is adopted for the Gallatin County/Bozeman Area Zoning District (GCBAZD) which was created July 27, 1999.
- 1.02** This Regulation is adopted pursuant to § 76-2-201, MCA, in accordance with the Gallatin County Growth Policy.
- 1.03** Copies of the Regulation and Official Zoning Map are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department.

Section 2: Purpose and Intent of Regulations

- 2.01** This Regulation has been created in accordance with the Gallatin County Growth Policy (adopted April 15, 2003) for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with § 76-2-203, MCA, this Regulation is designed to:
1. Lessen congestion in the streets.
 2. Secure safety from fire, panic, and other dangers.
 3. Provide adequate air and light.
 4. Prevent the overcrowding of land.
 5. Avoid undue concentration of population.
 6. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
 7. Give reasonable consideration to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.
- 2.02** This Regulation is intended to implement the objectives, goals and policies of the Gallatin County/Bozeman Area Plan and Future Land Use Map. The intent of the Regulation is not to prevent particular activities, but rather to regulate and promote orderly development.

Section 3: Application of Regulations

3.01 Minimum Requirements. The requirements established by the Regulation are minimum regulations and apply uniformly to each class or kind of structure throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

3.02 Continuation of Non-conforming Uses. This Regulation includes a “grandfather clause” as provided under § 76-2-208, MCA, which allows existing non-conforming uses of land or buildings which would otherwise be restricted or regulated under the terms of this Regulation, to continue as non-conforming.

3.03 Zoning Regulation Compliance. No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.

No yard or lot existing at the time of adoption of this Regulation shall be reduced in dimension or area below the minimum requirement of this Regulation except as provided herein. Yards or lots created after the effective date of this Regulation shall meet the minimum requirements of this Regulation.

Property owners are responsible for ensuring all activity within the district boundaries comply to this Regulation.

3.04 Land Divisions. Any division of land must comply with this Regulation. Subdivisions are reviewed and permitted as provided by the Gallatin County Subdivision Regulations. All divisions of land must comply with the Gallatin County/Bozeman Area Plan and Future Land Use Map and this Regulation.

3.05 Exception. Under certain circumstances, the Zoning Enforcement Agent may exempt public utility pipelines, wells, or structures necessary for provision of services required for public health and safety, from the provisions of this Regulation.

3.06 Vesting. An application within the District is subject to the Regulation that is in effect at the time.

3.07 Contradictions. If the requirements of this Regulation conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.

3.08 Natural Resources. As provided under § 76-2-209, MCA, this Regulation may not prevent the complete use, development, or recovery of a mineral, forest, or agricultural resource. The complete use, development, or recovery of a mineral by an operation that mines sand and gravel and that mixes concrete or batches asphalt on a site that is located within an area zoned as residential are subject to the provisions of this Regulation.

3.09 Interpretations. The Zoning Enforcement Agent, Gallatin County Planning Board (Planning Board), and the Gallatin County Commission (Commission) are authorized to make official interpretations of the Zoning Regulation and Official Zoning Map. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Commission shall determine the appropriate classification of that use.

In interpreting a use classification, the Commission shall consider the matter in a public meeting and determine that the use and its operation:

1. Is compatible with the uses permitted in the district.
2. Is similar to one or more uses permitted in the district.
3. Will not adversely affect property in the neighborhood or district.
4. Will not abrogate the intent of the Plan or this Regulation by such classification.

Section 4: Establishment of Zone Districts and Official Zoning Map

4.01 Zone Districts. The Gallatin County/Bozeman Area Zoning District is hereby divided into zones or "zone districts," as shown on the Official Zoning Map and as explained in this Regulation.

4.02 Official Zoning Map. The official zoning map shall be available in the office of the Gallatin County Clerk and Recorder and shall bear certificate with the signature of the Chairman of the Gallatin County Commission attested by the clerk and recorder, the date of adoption of the official zoning map. If any changes to the official zoning map are made by amendment of this Regulation in accordance with **Section 31** hereof, such changes shall be made to the official zoning map and signed, dated and certified upon the map or upon documentation attached thereto.

4.03 Interpretation of Map Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the boundaries shall be interpreted as following the nearest logical line to that shown. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines. Boundaries indicated as approximately following city limits shall be construed as following such city limits. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s). Boundaries indicated as following the centerline of streams, rivers, canals, or ditches shall be construed to follow such centerlines. Boundaries indicated as parallel to or extensions of features indicated on the official zoning map shall be determined by the scale of the map.

Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or where other circumstances or controversy arise over district boundaries; the Zoning Enforcement Agent shall interpret the district boundary; such interpretation may be subject to appeal to the board of adjustment.

Section 5: Invalidation and Severability

- 5.01** If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of this Regulation, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of the regulations to render the same operative and reasonably effective for carrying out the main purpose and intention of this Regulation.

ARTICLE II ZONING DISTRICTS

Section 6: Agriculture Suburban (A-S)

6.01 Intent. The intent of the A-S district is to provide for agricultural/residential uses and development in areas that are in compliance with the Gallatin County/Bozeman Area Plan. For the purpose of MCA 76-2-209, the County Commission has determined that the A-S district is residential in nature.

6.02 Permitted Principal Uses.

1. Agricultural activity.
2. Dwelling, single-family, one unit per parcel of record.
3. Dwelling, single-family manufactured home, one unit per parcel of record (see **Section 20**).
4. Essential services (Type 1).
5. Day care home, family.
6. Day care home, group.
7. Nursery, plant.
8. Public parks.

6.03 Permitted Accessory Uses.

1. Buildings and structures typically accessory to residential and agricultural uses.
2. Fences.
3. Garage, private.
4. Greenhouses.
5. Guesthouses.
6. Home occupations.
7. On-premise sale of products produced thereon.
8. Private pools, tennis courts and spas.
9. Signs, subject to **Section 22**.
10. Single-family or multifamily dwellings to house employees working on the farm or ranch.
11. Temporary buildings and yards incidental to construction work.
12. Tool sheds for storage of domestic supplies.

6.04 Conditional Uses.

1. Airfield, personal use.
2. Bed and breakfast homes.
3. Churches.
4. Community residential facilities.
5. Day care centers.
6. Essential services (Type II).

7. Golf courses.
8. Group homes.
9. Hunting and fishing clubs.
10. Planned unit developments.
11. Public and private parks and campgrounds.
12. Veterinary uses.
13. Recreational vehicle parks and campgrounds.
14. Residence for owner or caretaker of recreational vehicle parks and campgrounds.
15. Sand and gravel mining operations.
16. Schools.
17. Stable, commercial.
18. Temporary sales and office buildings.

6.05 Development Options.

1. Standard Development. The development of new lots within the A-S district are subject to the following table:

Number of dwelling units permitted based on size of tract to be developed (in acres).										
Acres	20	25	30	35	40	44	48	52	56	60
Dwelling Units	1	2	3	4	5	6	7	8	9	10
Acres	64	68	72	76	80	→Continued as a Straight→				
Dwelling Units	11	12	13	14	15	→Line Projection→				

Note: Dwelling units shown in the above table do not require compliance with Section 24, Transfer of Development Rights.

2. Planned Unit Development (PUD). Lot area, lot width, dwelling unit design, lot coverage, yards, and building height in the A-S district may be established through a PUD. See **Section 23**, Planned Unit Development.
3. Transfer of Development Rights (TDR). See **Section 24**, Transfer of Development Rights.

6.06 Density. Residential development density within the A-S district shall not exceed nine dwelling units per acre.

6.07 Lot Coverage.

1. For lots 5 acres and larger, lot coverage shall not exceed 5% of the lot area.
2. For lots smaller than 5 acres, lot coverage shall not exceed 25% of the lot area or 11,000 square feet, whichever is less.

6.08 Yards and Setbacks.

1. Every lot in the A-S district shall have the following minimum yards:

Front yard	35 feet
Rear yard	25 feet
Side yard	25 feet each side
2. All yards shall be subject to the provisions of **subsection 15** when applicable.
3. Except for pastures, any stable, barn, hutch, pen, shed or other such structure built to enclose or house animals or fowl shall not be less than 50 feet from any structure used for human occupancy.

6.09 Building Height.

1. In the A-S district, maximum building height for buildings designed and constructed for human occupancy shall be as follows:

Roof pitch greater than 6:12	34 feet
Roof pitch 3:121 or greater but not greater than 6:12	30 feet
Roof pitch less than 3:12	24 feet
2. Only structures necessary for agricultural uses may exceed the permitted allowable building heights.

Section 7 Residential Suburban (R-S)

7.01 Intent. The intent of the R-S district is to provide for residential single-household country estates on lots of one acre; in areas that are in compliance with the Gallatin County/Bozeman Area Plan.

7.02 Permitted Principal Uses.

1. Agricultural activity on 2.5 acres or greater.
2. Dwelling, single-family, one unit per parcel of record.
3. Dwelling, single-family manufactured home, one unit per parcel of record (see **Section 20**).
4. Essential services (Type 1).
5. Parks and playgrounds.

7.03 Permitted Accessory Uses.

1. Buildings and structures typically accessory to residential and agricultural uses.
2. Bed and breakfast homes.
3. Day care home, family.
4. Fences.
5. Greenhouses.
6. Guesthouses.
7. Home occupations.
8. Private garages.
9. Private pools, tennis courts and spas.
10. Signs, subject to **Section 22**.
11. Temporary buildings and yards incidental to construction work.
12. Tool sheds for storage of domestic supplies.

7.04 Conditional Uses.

1. Agricultural activity on less than 2.5 acres.
2. Churches.
3. Community residential facilities.
4. Day care centers.
5. Day care home, group.
6. Essential services (Type II).
7. Golf courses.
8. Group homes.
9. Health and exercise establishments.
10. Planned unit developments.
11. Veterinary uses.
12. Schools.
13. Temporary sales and office buildings.

7.05 Development Options.

1. Standard Development. Minimum lot area in the R-S district shall be one-acre, with a minimum lot width of 150 feet. Development of single-family lots at or greater than one-acre do not require compliance with Section 24, Transfer of Development Rights.
2. Planned Unit Development (PUD). Lot area, lot width, dwelling unit design, lot coverage, yards, and building height in the R-S district may be established through a PUD. See **Section 24**, Planned Unit Development.
3. Transfer of Development Rights (TDR). See **Section 25**, Transfer of Development Rights.

7.06 Density. Residential development density within the R-S district shall not exceed nine dwelling units per acre.

7.07 Lot Coverage and Floor Area. Not more than 25% of the lot area shall be covered by principal and accessory buildings. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.

7.08 Yards and Setbacks.

1. Every lot in the R-S district shall have the following minimum yards:

Front yard	35 feet
Rear yard	25 feet
Side yard	25 feet each side
2. All yards shall be subject to the provisions of **subsection 15** when applicable.
3. Except for pastures, any stable, barn, hutch, pen, shed or other such structure built to enclose or house animals or fowl shall not be less than 50 feet from any structure used for human occupancy.

7.09 Building Height.

1. In the R-S district, maximum building height for buildings designed and constructed for human occupancy shall be as follows:

Roof pitch greater than 6:12	34 feet
Roof pitch 3:12 or greater but not greater than 6:12	30 feet
Roof pitch less than 3:12	24 feet
2. Only structures necessary for agricultural uses may exceed the permitted allowable building heights.

Section 8 Residential Existing Low Density (R-LD)

8.01 Intent. The intent of the R-LD district is to provide for single-family residential structures and uses on lots within existing recorded subdivisions.

8.02 Permitted Principal Uses.

1. Single-family dwellings, one unit per existing lot of record.
2. Essential services (Type I).
3. Family day care home.
4. Group day care home.
5. Public parks.

8.03 Permitted Accessory Uses.

1. Buildings and structures typically accessory to residential uses.
2. Fences.
3. Greenhouses.
4. Guesthouses.
5. Home occupations.
6. Private garages.
7. Private pools, tennis courts and spas.
8. Signs, subject to **Section 22**.
9. Temporary buildings and yards incidental to construction work.
10. Tool sheds for storage of domestic supplies.

8.04 Conditional Uses.

1. Bed and breakfast homes.
2. Churches.
3. Community residential facilities.
4. Day care centers.
5. Group homes.
6. Planned unit developments.
7. Schools.
8. Temporary sales and office buildings.

8.05 Lot Area and Width. Lot area and width of the R-LD district shall be the same as on the recorded subdivision plat. With the exception of relocation of common boundaries, no lot area or lot width shall be reduced in size.

8.06 Lot Coverage and Floor Area. Not more than 40% of the lot area shall be covered by principal and accessory buildings. Each dwelling unit shall have a minimum of 1,000 square feet of floor area.

8.07 Yards and Setbacks.

1. Every lot in the R-LD district shall have the following minimum yards:

Front yard	25 feet
Rear yard	25 feet
Side yard	12 feet each side
2. All yards shall be subject to the provisions of **subsection 15** when applicable.

8.08 Building Height.

1. In the R-LD district, maximum building height for buildings shall be as follows:

Roof pitch greater than 6:12	32 feet
Roof pitch 3:12 or greater but not greater than 6:12	28 feet
Roof pitch less than 3:12	24 feet

Section 9 Residential Existing Medium Density (R-MD)

9.01 Intent. The intent of the R-MD district is to provide for one to five-family residential structures and uses on lots within existing recorded subdivisions.

9.02 Permitted Principal Uses.

1. Dwelling, single-family, one unit per existing lot of record.
2. Dwelling, single-family manufactured home (see **Section 21**) one unit per existing lot of record.
3. Dwelling, two-family, one per existing lot of record.
4. Dwelling, multiple (multi-family), one per existing lot of record.
5. Townhouse clusters, not to exceed 5 units or 120 feet in length.
6. Essential services (Type I).
7. Day care home, family.
8. Day care home, group.
9. Group homes.
10. Public parks.

9.03 Permitted Accessory Uses.

1. Buildings and structures typically accessory to residential uses.
2. Fences.
3. Greenhouses.
4. Guesthouses.
5. Home occupations.
6. Private garages.
7. Private pools, tennis courts and spas.
8. Signs, subject to **Section 22**.
9. Temporary buildings and yards incidental to construction work.
10. Tool sheds for storage of domestic supplies.

9.04 Conditional Uses.

1. Bed and breakfast homes.
2. Churches.
3. Community residential facilities.
4. Day care centers.
5. Planned unit developments.
6. Schools.
7. Temporary sales and office buildings.

9.05 Lot Area and Width.

1. Lot area and width of the R-MD district shall be the same as on the recorded subdivision plat. With the exception of townhouse clusters within existing lots and relocation of common boundaries, no lot area or lot width shall be reduced in size.
2. For townhouse clusters, the minimum average lot area per unit in an individual structure shall be 3,000 square feet. The minimum lot width shall be that of the width of the interior units.

9.06 Lot Coverage and Floor Area. Not more than 40% of the lot area shall be covered by principal and accessory buildings. The average floor area of all dwelling units in a structure shall have a minimum of 600 square feet.

9.07 Yards and Setbacks.

1. Every lot in the R-MD district shall have the following minimum yards:

Front yard	25 feet
Rear yard	20 feet
Side yard	8 feet each side (except zero lot line sides for townhouse units)
2. All yards shall be subject to the provisions of **subsection 15** when applicable.

9.08 Building Height.

1. In the R-MD district, maximum building height for buildings shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet

Section 10 Residential Mobile Home (R-MH)

10.01 Intent. The intent of the R-MH district is to provide for single-family mobile home developments at a medium density, and directly related complementary uses.

10.02 Permitted Principal Uses.

1. Single-family mobile homes.
2. Public parks.
3. Day care homes, family.
4. Day care homes, group.
5. Essential services (Type I)
6. Mobile home parks on sites of not less than 10 acres.
7. Mobile home subdivisions on sites of not less than 10 acres.

10.03 Permitted Accessory Uses.

1. Accessory buildings and uses customarily incidental thereto. *No part of any mobile home park or subdivision shall be used for nonresidential purposes, except for such uses that are required for direct servicing and the well being of park residents and for the management and maintenance of the park or subdivision. Nothing in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.*
2. Buildings and structures customarily accessory to a mobile home development.
3. Fences.
4. Greenhouses.
5. Home occupations.
6. Private garages.
7. Private pools, tennis courts, spas, recreational vehicle and boat storage areas for less than 3 vehicles.
8. Signs, subject to **Section 22**.
9. Tool sheds for storage of domestic supplies.

10.04 Conditional Uses.

1. Churches.
2. Day care centers.
3. Essential services (Type II).
4. Planned unit developments.
5. Public buildings.
6. Temporary sales and office buildings.
7. Private recreational vehicle and boat storage areas for more than two vehicles.

10.05 Lot Area and Width.

1. For mobile home park developments, the design and improvement standards provided under Section 12.D., Standards for Mobile Home or Manufactured Housing Parks and Recreational Vehicle Parks, of the Gallatin County Subdivision Regulations, shall apply.
2. For mobile home subdivisions, the minimum lot area shall be 5,500 square feet where both community water and sewer are available. The minimum lot width shall be 55 feet.

10.06 Yards and Setbacks.

1. For mobile home park developments, yards and setbacks shall be as provided under Section 12.D., Standards for Mobile Home or Manufactured Housing Parks and Recreational Vehicle Parks, of the Gallatin County Subdivision Regulations.
2. For mobile home subdivisions, every lot shall have the following minimum yards:

Front yard	20 feet
Rear yard	8 feet
Side yard	8/20 feet (no side yard shall be less than 8 feet; at least one side yard shall be 20 feet)

All yards shall be subject to the provisions of **subsection 15** when applicable.

10.07 Building Height.

1. In the R-MH district, maximum building height for buildings shall be as follows:

Roof pitch 3:12 or greater	30 feet
Flat roof or roof pitch less than 3:12	24 feet

Section 11 Residential Office (R-O)

11.01 Intent. The intent of the R-O district is to accommodate the development of professional offices and associated multifamily housing compatible with adjacent land uses.

11.02 Permitted Principal Uses.

1. Apartments located on second or subsequent floors.
2. Essential services (Type I).
3. Medical offices, clinics and centers.
4. Offices.

11.03 Permitted Accessory Uses.

1. Buildings and structures typically accessory to permitted uses.
2. Fences.
3. Greenhouses.
4. Private garages.
5. Refuse containers.
6. Signs, subject to **Section 22**.
7. Tool sheds for storage of domestic supplies.
8. Temporary buildings and yards incidental to construction work.
9. Parking areas as required by **Section 19**.

11.04 Conditional Uses.

1. Apartment buildings and multifamily dwellings, up to a maximum of 12 dwelling units per acre, and where development rights have been acquired in compliance with Section 24, Transfer of Development Rights.
2. Bed and breakfast homes.
3. Churches.
4. Community residential facilities.
5. Day care centers.
6. Group homes.
7. Health and exercise establishments.
8. Lodginghouses.
9. Planned unit developments.
10. Schools.

11.05 Lot Area and Width. Lot area shall not be less than 5,000 square feet, with a width of 50 feet.

11.06 Lot Coverage and Floor Area. Not more than 50% of the lot area shall be covered by principal and accessory buildings. The average floor area of all dwelling units in a structure shall have a minimum of 600 square feet.

11.07 Yards and Setbacks.

1. Every lot in the R-O district shall have the following minimum yards:

Front yard	25 feet
Rear yard	20 feet
Side yard	8 feet each side
2. All yards shall be subject to the provisions of **subsection 15** when applicable.

11.08 Building Height.

1. In the R-O district, maximum building height for buildings shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet

Section 12 Neighborhood Service (N-S)

12.01 Intent. The intent of the N-S district is to provide for small retail and service activities frequently required by neighborhood residents on a day-to-day basis, while still maintaining a residential character.

12.02 Permitted Principal Activities. Principal activities shall be limited to those which are completely enclosed within a building not larger than 5,000 square feet in gross floor area. Accessory activities such as play areas associated with day care centers and patio dining areas for restaurants shall be permitted outdoors.

12.03 Permitted Principal Uses.

1. Apartments located on second or subsequent floors at a maximum density of 6 dwelling units per acre.
2. Day care centers.
3. Essential services (Type I).
4. Food stores, such as grocery stores, bakeries, etc.
5. Personal and convenience services.
6. Restaurants (exclusive of drive-ins).
7. Retail uses.

12.04 Permitted Accessory Uses.

1. Buildings and structures typically accessory to permitted uses.
2. Fences.
3. Parking areas as required by **Section 19**.
4. Refuse containers.
5. Signs, subject to **Section 22**.
6. Temporary buildings and yards incidental to construction work.

12.05 Conditional Uses.

1. Automobile service stations.
2. Churches.
3. Essential services (Type II).
4. Planned unit developments.
5. Professional and business offices.
6. Restaurants serving alcoholic beverages.

12.06 Lot Area and Width. Lot area shall be adequate to provide for required yards and off-street parking, but in no case less than 5,000 square feet, and 50 feet in width.

12.07 Lot Coverage. The entire lot, exclusive of required yards and parking, may be occupied by the principal and accessory buildings.

12.08 Yards and Setbacks.

1. Every lot in the N-S district shall have the following minimum yards:

Front yard	25 feet
Rear yard	20 feet
Side yard	8 feet each side
2. All yards shall be subject to the provisions of **subsection 15** when applicable.

12.09 Building Height.

1. In the B-1 district, maximum building height for buildings shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet
2. When adjacent to an R-S, R-LD, or R-MD district, the building height shall not exceed the allowable height established for the adjacent district.

Section 13 Manufacturing and Industrial (M-I)

13.01 Intent. The intent of the M-I district is to provide for the community's needs for wholesale trade, storage and warehousing, trucking and transportation terminals, manufacturing and industrial uses, and other similar activities. The district should be oriented to major transportation facilities yet arranged to minimize adverse effects on residential development, therefore, some type of screening may be necessary.

13.02 Permitted Principal Uses.

1. Ambulance service.
2. Automobile, boat or recreational vehicle sales, service and/or rental.
3. Automobile parking lot or garage (public or private).
4. Automobile repair facilities.
5. Bakery.
6. Banks and other financial institutions.
7. Building contractor's office.
8. Building materials sales.
9. Business and office machine sales, service and repair shop.
10. Cabinet shops.
11. Churches.
12. Community center or meeting hall.
13. Convenience food restaurant.
14. Essential services (Type I).
15. Health and exercise center.
16. Hotel or motel.
17. Manufacturing, light, and completely indoors.
18. Medical, dental or health clinic.
19. Messenger or telegraph service station.
20. Newsstand.
21. Nursery, plant.
22. Offices.
23. Office supply and office equipment store.
24. Optician.
25. Public buildings.
26. Radio and television studio, without transmission towers.
27. Repair and service establishment for light consumer goods, such as appliances and furniture.
28. Research laboratories.
29. Restaurants.
30. Sign shops.
31. Trade schools.
32. Travel agency.
33. Truck, bus and rail terminal facilities.
34. Warehousing.
35. Warehousing, residential storage (mini-ware housing).

13.03 Permitted Accessory Uses.

1. Any residential use which is clearly incidental to the operation of a permitted principal or conditional use, such as dormitories for the use of a scientific research center, caretaker and watchman, including residential use in connection with mini-warehousing for office/watchman purposes.
2. Buildings and structures typically accessory to permitted uses.
3. Outside storage if accessory to a principal use and if screened from the street and surrounding properties by a solid fence or dense plantings at least 6 feet high.
4. Parking areas as required by **Section 19.**
5. Personnel service facilities providing services, education, recreation, entertainment, food and convenience goods primarily for those personnel employed in the principal use.
6. Refuse containers.
7. Signs, subject to **Section 22.**
8. Temporary buildings and yards incidental to construction.

13.04 Conditional Uses.

1. Adult business, located no closer than 500 feet from any other adult use, home, residential district, school, place of worship, public park, or any youth-oriented establishment.
2. Amusement and recreational facilities.
3. Animal shelters.
4. Automobile service station.
5. Automobile washing establishment, drive through.
6. Automobile washing establishment, self-service.
7. Automobile wrecking yard.
8. Day care center.
9. Essential services (Type II).
10. Flour and feed mills.
11. Food processing plants.
12. Garbage transfer station.
13. Grain elevators.
14. Junk salvage yard (if adequately screened).
15. Machine shops.
16. Planned unit developments.
17. Production manufacturing and generation facilities (electric and gas).
18. Residences for owner or caretaker of junk salvage yards.
19. Retail establishments other than principal uses listed in subsection 13.02.
20. Sand and gravel operations, including mixing of concrete and asphalt batch plants.
21. Solid waste landfill.
22. Tennis and racquet clubs.
23. Truck repair facilities.
24. Truck stop and/or service station.
25. Truck washing establishment.

26. Veterinary clinics.

13.05 Lot Area and Width. Lot area shall be not be less than 7,500 square feet and no lot width shall be less than 75 feet, and the lot area shall provide all required yard areas and off-street parking and loading.

13.06 Lot Coverage. The entire lot, exclusive of required yards and parking, may be occupied by the principal and accessory buildings.

13.07 Yards and Setbacks.

1. Every lot in the M-I district shall have the following minimum yards:

Front yard	20 feet
Rear yard	none*
Side yard	none*

* When a lot is adjacent to or across the street from another zone, the yard requirements shall be the same as the adjoining zone and buildings shall be screened with either a decorative fence or plantings. The provisions of A-S, R-S, and PLI shall be interpreted as those of R-LD.

2. All yards shall be subject to the provisions of **subsection 15** when applicable.

13.08 Building Height. Maximum building height in the M-I district shall be 40 feet.

Section 14 Public Lands and Institutions (PLI)

14.01 Intent. The intent of the PLI district is to provide for public and quasi-public uses.

14.02 Applicability. All principal and any accessory uses shall be subject to site plan review and any conditions required as part of site plan approval.

14.03 Permitted Principal Uses.

1. Ambulance service.
2. Cemeteries.
3. Essential Services (Type I).
4. Museums, zoos, historic and cultural facilities and exhibits.
5. Public buildings, i.e., fire and police stations and government buildings.
6. Public and nonprofit, quasi-public institutions, i.e., universities, elementary, junior and senior high schools, and hospitals.
7. Publicly owned lands used for parks, playgrounds and open space.

14.04 Permitted Accessory Uses.

1. Buildings and structures typically accessory to permitted uses.

14.05 Conditional Uses.

1. Day care centers.
2. Essential services (Type II).
3. Planned unit developments.
4. Solid waste landfill facilities.

14.06 Lot Area and Width. There is no requirement for lot area and width within the PLI district.

14.07 Lot Coverage. The entire lot, exclusive of required yards and parking, may be occupied by the principal and accessory buildings.

14.07 Yards and Setbacks.

1. There is no yard requirement except when a lot is adjacent to another district. The yards then shall be the same as the adjacent district.
2. All yards shall be subject to the provisions of **subsection 15** when applicable.

ARTICLE III GENERAL DEVELOPMENT REQUIREMENTS

Section 15 Building and Development Standards

15.01 Purpose. The purpose of this section is to establish and describe general development standards and conditions under which certain uses may be permitted as principal or conditional uses in specific districts. These standards are designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the peace, health, safety and general welfare of the residents living within the zoning jurisdiction.

15.02 Standards for Specific Uses. All uses listed in this subsection shall be subject to the specific standards described for each use, in addition to all other applicable standards and procedures which may apply.

1. Automobile Service Station.
 - a. All requirements for convenience uses shall apply.
 - b. At least one frontage is to be on a principal arterial street as designated in the *Greater Bozeman Area Transportation Plan 2001 Update*.
 - c. Gas pump and pump island canopies are to be located no closer than 10 feet to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All canopy lighting must project downward, not upward or outward from the structure and must be low pressure sodium. The maximum height of the canopy shall not exceed 18 feet. All signs must conform with these Regulations.
 - d. All on-site activities except those normally performed at the fuel pumps are to be performed within a completely enclosed building. Paint spraying or body work is not permitted.
 - e. Where towing service is to be provided, a parking bay for the towing vehicle is to be provided and screened. The vehicle shall be screened on three sides with a minimum 6 foot opaque wall which architecturally matches the main building. Vehicles that are either under repair or vehicles that have been repaired may be stored on a temporary basis, not to exceed seven days and designated parking bays must be provided for each vehicle awaiting repairs.
 - f. All outdoor lighting shall be so arranged as to be directed on the premises and reflect away from any residential property. In addition, all lighting shall be attached to the main structure.
 - g. All structures approved under the conditional use permit shall be of a design character that is appropriate to the area in which they are to be constructed. Renderings of buildings shall accompany each application and construction shall be in conformity thereto. Architectural detailing shall be consistent on all four sides of the building.
 - h. All rest room entrances shall be screened from view of adjacent properties or street rights-of-way by a decorative wall or landscaping, or shall be accessed from the inside of the main entrance to the building.

- i. No outside storage of, and no sale, lease or rental of trailers, trucks or similar equipment shall be permitted except as specifically allowed in that zone.
 - j. Parking space for two vehicles per each service stall in the station, but no less than four spaces, shall be provided. Pump islands shall not be considered as service bays. Standing areas at pump islands and interior circulation areas shall not be used as parking areas in calculating required parking spaces.
- 2. Automobile Washing Establishment, Automatic.
 - a. All requirements for convenience uses shall apply.
 - b. All detergents must be biodegradable.
 - c. Any lights used to illuminate the area shall be directed away from adjacent residential properties.
 - d. Building surfaces shall be faced with masonry, brick, stucco, wood or some other permanent looking material. Corrugated metal is prohibited.
- 3. Automobile Washing Establishment, Self-Serve.
 - a. All requirements for convenience uses shall apply.
 - b. All detergents must be biodegradable.
 - c. Trash containers shall be emptied daily. In addition, the site shall be patrolled at least once daily in order to remove trash and litter.
 - d. Sale of automobile accessories such as batteries, tires, gasoline, etc. is prohibited.
 - e. Any lights used to illuminate the area shall be directed away from adjacent residential properties.
 - f. Canopies are to be located not closer than ten feet to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All canopy lighting shall project downward, not upward or outward from the structure. The maximum height of the canopy shall not exceed 18 feet.
- 4. Automotive Repair Facilities.
 - a. All repairs shall be performed within a building.
 - b. No site plan shall be approved which exposes unassembled vehicles, auto repair activities or auto parts to any street or residential district.
 - c. All vehicles awaiting repair shall be screened from view by masonry or wood wall or approved landscape screen.
- 5. Cemeteries.
 - a. Total site area, including business office and storage building, shall be a minimum of 40 acres, of which at least ten acres shall be developed in the initial plot.

- b. Accessory uses may include a chapel, mortuary, office, mausoleum, and other industrial uses which are incidental to the operation of a cemetery. Industrial uses may include such things as the manufacture of burial vaults and headstone foundations, provided all of the products are used on the site and are not offered for sale and use elsewhere. The cemetery shall not include uses of an industrial nature other than those stated in this subsection.
- 6. Convenience Uses and Drive-Through/Drive In Restaurants.
 - a. Convenience uses may be located only at intersections of arterial streets as designated in the *Greater Bozeman Area Transportation Plan 2001 Update*.
 - b. The site area for any convenience use shall be a minimum of two acres, unless such convenience use is part of an approved site plan for one or more additional uses and buildings, or planned unit development.
 - c. All convenience uses shall be designed in an architectural and design character that is appropriate for and compatible with the area.
 - d. Use of standardized corporate themes shall be integrated into the architectural design of the building.
 - e. When located in shopping centers, the architectural character of the building shall be integrated with the design theme of the center through the use of the same building materials, shapes and details. The effect of color in creating a design character that is appropriate for and compatible with the area will be considered. All parking, circulation, driveways, setbacks and signage shall be integrated with the entire design theme of the project.
 - f. The elevation design of the building shall provide design character and detailing on all four sides.
 - g. Noise from drive-through speakers shall not be audible from adjacent residential districts.
- 7. Fireworks Sales Stands.
 - a. Zoning Standards:
 - i. A fireworks business shall not be located outside of a N-S or M-I zoning district.
 - ii. A fireworks business shall be on a lot which meets the access and frontage requirements of these Regulations.
 - b. Construction Standards:
 - i. A fireworks business shall be constructed to meet all setback requirements of the zoning district in which it is located.
 - ii. The appropriate fire protection authority (local fire district chief or County Fire Marshall) shall provide written certification that the proposed site plan, building designs, landscaping, fire access, etc., comply with current fire safety standards.
 - iii. Parking on the premises of a fireworks business shall be provided in accordance with the requirements of these Regulations and the recommendations of the Gallatin County Planning Department.

- c. Health Standards:
 - i. A fireworks business shall provide adequate sanitary facilities for employees which comply with all applicable health regulations and approvals as required by the Gallatin City-County Health Department.
 - ii. A fireworks business shall have at least one metal trash container with a lid on the premises.
- d. Fire and Safety Standards. The applicant shall demonstrate compliance with all current and applicable fire safety standards. Where state or county adopted fire safety standards conflict with these standards, the more stringent shall apply. The following are the minimum fire safety standards:
 - i. The premises upon which fireworks are sold shall contain at least 2 fire extinguishers, in good working order and easily accessible, which shall meet current NFPA-10 standards. Any storage unit associated with the fireworks business shall contain at least two (2) fire extinguishers which meet the above standards.
 - ii. No smoking shall be permitted in or on the premises of the fireworks business. A sign stating in bold letters "NO SMOKING" shall be prominently displayed inside and outside the fireworks business.
 - iii. No fireworks shall be discharged in or on the premises of the fireworks business, or within 150 feet of the fireworks business or any of its storage units.
 - iv. A fireworks business shall not have on its premises any hazardous material which is unrelated to the sale of fireworks. Any related gasoline, petroleum product or hazardous material shall be stored in a separate structure which complies with these Regulations. The separation between exits or entrances to the fireworks business and the structure containing gasoline, petroleum products or hazardous materials shall not be less than 150 feet.
 - v. Grass, weeds or other vegetation over 3 inches in height, or the potentially flammable cuttings or residue thereof, shall not be permitted on the premises of the fireworks business or within 150 feet of the fireworks business, while said business is operational.
 - vi. A sign containing prohibitions for discharge of fireworks on public or private lands, unless those lands are owned by the fireworks user or the user has the permission of the landowner, shall be displayed prominently on the premises of the fireworks business so that it may be easily viewed by the public.
 - vii. The fireworks business operator shall install signage as requested by the City of Bozeman. The text for this sign shall read "IT IS ILLEGAL TO DISCHARGE FIREWORKS IN THE CITY OF BOZEMAN EXCEPT AS PROVIDED BY CITY ORDINANCE (TITLE 8 CHAPTER 12 OF BOZEMAN MUNICIPAL CODE) UNDER PENALTY OF LAW", in letters at least two inches tall, where customers are most likely to read it.

- viii. In the event that the Gallatin County Commission passes a resolution declaring an extreme fire danger in the County, and notify fireworks businesses of same, fireworks businesses shall cease all sales of fireworks immediately and shall prominently display a sign within the fireworks business stating in bold letters “DUE TO EXTREME FIRE DANGER, IT IS UNLAWFUL TO SELL OR DISCHARGE FIREWORKS IN GALLATIN COUNTY”. Fireworks business shall be notified within a reasonable time that a ban is in place or has been lifted.
 - ix. The Uniform Fire Code shall apply to and govern the sales of fireworks and the operation of a fireworks business.
 - e. Liability Insurance. The fireworks business operator shall provide a certificate of general liability insurance with limits of \$750,000 per claim, \$1,500,000 per occurrence, naming Gallatin County as an additional insured, before any use permit is issued. Such general liability insurance must be in effect not less than 30 days after the permit expires. The fireworks business operator must give immediate notice to the Zoning Enforcement Officer if the general liability policy required by this permit is cancelled or is subject to nonrenewal.
8. Glare and Lighting.
- a. Any lighting used to eliminate an off-street parking area, sign, outdoor recreational facilities, or other structure, shall be arranged so as to deflect light down and/or away from any adjoining residential district and shall not detract from driver visibility on adjacent streets.
 - b. All lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Exceptions will be granted to those businesses which are operating during these hours.
 - c. Lighting used to illuminate off-street parking areas shall not exceed 20 feet or the height of the tallest building on the lot, whichever is lower.
9. Mini-Warehouses.
- a. Minimum site size shall be one acre.
 - b. A minimum of two exits shall be provided for the site.
 - c. All one-way driveways shall provide for one 10 foot parking lane and one 12 foot travel lane. Traffic direction and parking shall be designated by signing or painting.
 - d. All two-way driveways shall provide for one 10 foot parking lane and two 10 foot travel lanes.
 - e. The parking lanes may be eliminated when the driveway does not serve storage cubicle.
10. Outdoor Sales and Display.

- a. Merchandise which is offered for direct sale, rental or lease to the ultimate consumer or user may be displayed beyond the confines of a building in any commercial district, but the area occupied by such outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless such merchandise is a type customarily displayed outdoors such as automobiles and garden supplies. In such cases, the maximum area for outdoor sales and display shall not exceed 50% of the total lot area.
- b. Outdoor sales and display areas shall not be located in any required yard.

11. Outdoor Storage.

- a. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within the confines of a 100% opaque wall or fence not less than 6 feet tall.
- b. No storage of any type shall be permitted within any required yard.
- c. All areas designated for vehicle and equipment storage shall be screened from view from the street and adjacent properties as per paragraph 10.a above. Vehicle and equipment storage areas shall not be subject to parking lot paving or landscape requirements, but shall be adequately drained and managed for dust control.

12. Recreational Vehicle Park and Overnight Campground.

- a. Recreational vehicle parks shall be screened from view of any residential development.
- b. Internal circulation roads shall be paved with concrete or asphalt.
- c. Individual recreational vehicle parking pads shall be plainly marked and maintained with a dust free surface.
- d. Individual recreational parking pads shall be setback at least 30 feet from the perimeter of the park and 30 feet from any public street right-of-way.
- e. Approved trash disposal and bathroom and laundry facilities, including facilities for the handicapped, shall be provided for use of overnight campers.

13. Recreational Vehicle Parking on Residential Lot.

- a. No person shall park or occupy any recreational vehicle or mobile home on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside of any approved mobile home park or mobile home subdivision except that:
 - i. The parking of only one occupied recreational vehicle in any accessory private garage, or in a rear yard in any district is permitted, providing no living quarters shall be maintained or any business practiced in the recreational vehicle while such recreational vehicle is so parked or stored; and

- ii. In the event of hardship, temporary use permits may be granted for occupying such recreational vehicle or mobile home.
- 14. Stable, Commercial.
 - a. The minimum size shall be 10 acres.
 - b. The proposed site shall not be adjacent to subdivided single-family residential property unless that residential property contains an equestrian easement along the contiguous boundary.
 - c. Structures or facilities used for stabling, storing, showing or training of animals shall be set back a minimum of 100 feet from any adjacent privately owned property.
 - d. There shall be a 40 foot yard adjacent to any public road.
 - e. Permission for shows and special events shall be obtained from the Planning Department. Written notification shall be provided explaining the nature and duration of the activity, including accommodations for spectators, traffic control, and additional parking for cars and trailers. The written notification shall be submitted to the zoning enforcement agent 90 days prior to the date of the show or special event.
 - f. Adequate parking for daily activities shall be shown on the site plan. All parking shall be improved to the parking standards required by these Regulations.
- 15. Swimming Pools.
 - a. No public or private swimming pool in any district shall be located in any front yard as defined in these Regulations.
 - b. All swimming pools shall be enclosed in an area with a fence, wall or structure not less than 42 inches in height.
- 16. Tennis and Racquet Club.
 - a. The use shall be compatible with adjacent residential uses with respect to traffic and noise generation from the site.
 - b. The minimum property size shall be three acres.
 - c. Access to the facility shall be provided by an arterial or collector street as designated in the *Greater Bozeman Area Transportation Plan 2001 Update*.
 - d. Fencing of outdoor courts shall not exceed 26 feet in height.
 - e. A 50 foot landscape buffer strip shall be provided adjacent to any residential zoning district.
 - f. Perimeter fencing of the site may be required.
- 17. Trash and Garbage Enclosures.

- a. Enclosure. A permanent trash enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for all nonresidential uses, except where a property is entirely surrounded by screen walls or buildings.
- b. Visibility. Trash enclosures shall be constructed so that contents are not visible from a height of five feet above grade from any adjacent road or property.
- c. Location. Trash enclosures, surrounding standard stall bins (dumpsters), shall be located on the site for convenient pickup service, and the location shall be shown on required site plans. Trash enclosures shall not be located in required front yards, and shall be situated so that containers can be pulled straight out of the enclosure or so the sanitation truck can back straight into it.
- d. Construction. Trash enclosures shall be constructed of solid or ornamental pierced masonry walls or other appropriate materials, with a solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall be less than four feet in height above grade.

15.03 Dwelling Unit Restrictions. No cellar, garage, tent, tepee, basement with unfinished structure above, or accessory building, or any mobile home or recreational vehicle outside of an approved mobile home or recreational vehicle development shall at any time be used as a dwelling unit, unless approved for use as a temporary dwelling unit due to a demonstrated hardship.

15.04 Accessory Building, Uses and Equipment.

1. Accessory buildings, uses, or equipment shall not be stored or constructed between the front lot line and required front building line.
2. Accessory buildings in any business or industrial district may be located only to the rear of the front line of the principal building.
3. No accessory building in any residential, business or industrial district shall exceed the height of the principal building or structure, unless such accessory building or structure has been otherwise approved under these Regulations. No accessory building shall be located within a utility easement.
4. Detached Structure Setback Requirements:
 - a. A detached structure such as a garage shall meet the setback requirements of the principal building except that garages may be located 10 feet from the rear property lines in districts where rear yard setback requirements exceed 10 feet for principal buildings or structures.
 - b. Detached accessory structures such as storage sheds not larger than 120 square feet in area, playhouses, garbage enclosures, etc. shall not be located in any required front or side yard, but may be located one foot from property

lines in required rear yards. These limitations shall not apply to such features as lawn ornaments, bird feeders, utility service boxes or mailboxes.

- c. A detached structure wall shall maintain a minimum of 6 feet separation from the main structure wall.

- 5. Accessory structures may occupy not more than 25% of any required rear yard.

15.05 Yard and Height Encroachments, Limitations and Exceptions.

- 1. Permitted Encroachments Into Yards:

- a. Architectural features such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, eaves, gutters, awnings, and steps, provided such architectural features do not extend more than 5 feet into any required yard.
- b. Terraces and patios, uncovered decks and stoops, or similar features, provided that such features shall not extend above the height of the ground floor level of the principal structure, and no more than 5 feet into any required yard.
- c. Porches, covered terraces, and covered decks, provided such features shall not occupy more than one-third of the length of the building wall and shall not extend more than 5 feet into any required yard.
- d. Fire escapes may be permitted in required side and rear yards.
- e. Wheelchair ramps may encroach into any required yard, but shall not be located closer than 3 feet from any property line.
- f. Flag poles, ornamental features, trees, shrubs, walkways, nameplate signs, and floodlights or other sources of illumination provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

- 2. Zero Lot Line Conditions. Where an individual owns two adjoining lots or where the owners of two adjoining lots make legal written agreement, a zero lot line concept may be used for single-family dwelling unit developments. This may result in the creation of a two-family residential structure, only in districts permitting such structure, or the creation of townhouse clusters in districts permitting such structure. In all cases a minimum 10 foot side yard shall be maintained adjacent to the exterior side, or non-zero lot line side, of the structure.

- 3. Corner Yard Setbacks:

- a. The corner side yard for any corner lot not located on an arterial street shall be equal to the adjacent yard of the adjacent lot, but in no case shall the corner side yard be less than 15 feet.
- b. A 25 foot corner side or front yard shall be provided on all arterial streets designated in the *Greater Bozeman Area Transportation Plan 2001 Update*.

4. Watercourse Setbacks. No newly constructed structure, addition to an existing structure, parking lot or similar improvements shall be located closer than 35 feet to the mean high water mark of a watercourse as defined in these Regulations. For the purpose of this Section, the mean high water mark shall be defined as the line which the water impresses on the soil by covering it for sufficient periods to deprive it of vegetation.
5. Height Limitation Exceptions:
 - a. Height limitations shall not apply to church spires, belfries, cupolas and domes; monuments; chimneys and smoke stacks; flag poles; public and private utility facilities; transmission towers of commercial and private radio broadcasting stations; and television antennae, excluding, however any such facility regulated under **Section 21** of these Regulations; parapet walls extending no more than four feet above the limiting height of the building; and solar energy collectors and equipment used for the mounting or operation of such collectors.
 - b. Towers and monuments, cooling towers, gas holders or other structures, where the manufacturing process requires a greater height, and grain elevators and silos are exempt from these Regulations; provided that any structure above the height otherwise permitted in the district shall occupy no more than 25% of the area of the lot and shall be at least 25 feet from every lot line.

15.06 Fences, Wall and Hedges.

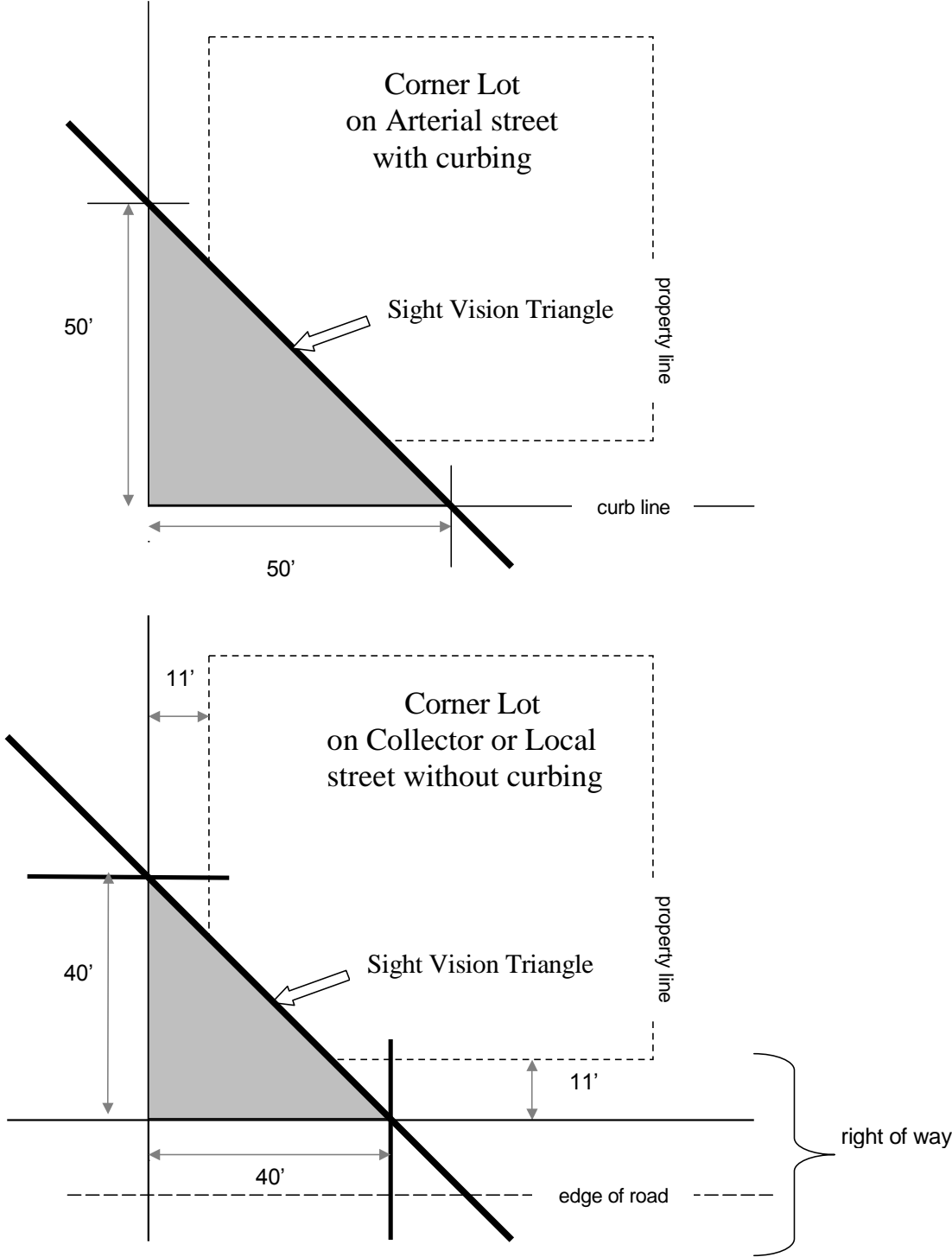
1. Except as provided in Section 15.07, fences, walls and hedges, in any district may be located on lot lines provided such fences, walls and hedges do not exceed 8 feet in height. Fences exceeding eight feet in height shall be subject to the minimum yard requirements of the district in which such fences are located. However, no fences, walls or hedges shall exceed 4 feet in any corner side yard or front yard, as defined in this title. Fences used in an agricultural pursuit to retain stock animals shall be excepted.
2. Fences located in the rear yard setback of properties adjoining any linear park shall have a maximum height of 4 feet.
3. In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the high side of the wall.
4. Fencing of Utilities and Outdoor Storage Areas:
 - a. All utility substations, wells, storage facilities, or other utilities shall be screened from view by a wall, fence, hedge or landscape screen.

- b. All storage for commercial operations shall be conducted within a completed enclosed building or within an area completely enclosed, except for access points, by a wall, fence, hedge or landscape screen at least 6 feet in height.

15.07 Street Vision Triangle.

1. Arterial Streets. On corner lots on arterial streets in all districts, no fence, wall or planting in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curb lines of the two intersection streets, thence 50 feet along one curb line, thence diagonally to the point 50 feet from the point of beginning on the other curb lines, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.
2. Collector and Local Streets. On corner lots, on collector and local streets, all districts, no fence, wall or planting in excess of 30 inches above the street centerline grades shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curb lines of two intersecting streets, thence 40 feet along one curb line, thence diagonally to a point 40 feet from the point of beginning on the other curb line, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.
3. Driveways and Alleys. At the intersection of each driveway or alley with a street, a triangular area where corners are defined by two points on the right-of-way line, 15 feet on each side of the centerline of the driveway or alley and a point on centerline 10 feet outside the right-of-way.
4. Provision for Trees in Street Vision Triangle. Existing and new trees may be permitted in street vision triangles as described in this section, provided that mature trees do not significantly affect safe driving conditions and are maintained such that no canopy foliage exists below a height of ten feet (10') above centerline of intersecting streets.

Street Vision Triangle Examples



15.08 Property Access Standards.

1. Lot Access. Any lot which requires a Land Use Permit or Conditional Use Permit prior to any construction projects, shall be accessible from a road that meets one of the following improvement and access standards:
 - a. The road is constructed to a standard that has historically provided an adequate level of service to adjacent properties and would not be degraded as a result of the development proposed; or
 - b. The road is constructed to a standard that substantially meets the road design standards of the Gallatin County Subdivision Regulations.
2. Access Compliance Determination. When the Planning Department determines that the proposed access to a property raises questions about compliance with these requirements, the applicant shall provide documentation to the Planning Department that the proposed access complies with these requirements. Such documentation may include:
 - a. Written confirmation from the local fire district and other emergency service providers that the property will be accessible to emergency vehicles;
 - b. Written confirmation that the applicable approach permits or encroachment permits have been obtained from the Montana Department of Transportation and/or the Gallatin County Road & Bridge Department, and written confirmation that all applicable terms and conditions of the permit(s) have been met; and
 - c. Any other information determined by the Planning Department to support compliance with these requirements.

15.09 Drive Access Requirements.

1. Drive accesses taking primary access from an improved public road, as defined herein, are required for commercial parking lots and parking lots for residential developments of four or more dwelling units.
2. All drive accesses installed, altered, changed, replaced or extended after the effective date of this Regulation and codified in this section shall comply with the following requirements:
 - a. Residential drive access openings shall conform to the following criteria:
 - i. Single-family drive access openings shall not exceed 24 feet in width measured at the right-of-way line and 30 feet in width measured at the curb line. All residential complexes for fewer than four families are considered single-family residences for the purpose of this section.

- ii. Residential complexes with four or more dwelling units shall be considered commercial (nonresidential) establishments for the purpose of this section, except that separated parking facilities for individual townhouse units shall be considered the same as single-family parking facilities.
 - b. Nonresidential drive access openings shall conform to the following criteria:
 - i. Commercial drive access widths shall be a maximum of 35 feet measured at the inside edge of the drive access extended, at its intersection with the projected curb line of the intersecting street. Two-way drive access shall be a minimum of 24 feet and one-way drive access shall be a minimum of 16 feet.
 - ii. Industrial drive access widths shall be a maximum of 40 feet measured at the inside edge of the drive access extended, at its intersection with the projected curb line of the intersecting street. Two-way drive accesses shall be a minimum of 24 feet and one-way drive accesses shall be a minimum of 16 feet.
 - c. Drive accesses for all multiple tenant commercial buildings or complexes/centers, or industrial drive accesses shall be set back a minimum of 15 feet from the adjacent property line unless such drive access is approved as a shared drive access.
 - d. Drive accesses to drive-in theaters, stadiums, racetracks, funeral homes, or uses generating very heavy periodic traffic conflicts shall be located not closer than 200 feet to any pedestrian or vehicular entrance or exit to a school, college, university, church, hospital, public emergency shelter or other place of public assembly.
 - e. All commercial and industrial drive accesses on arterial streets shall have 15 foot return radii unless otherwise approved. All commercial and industrial drive accesses on other streets may have either return radii or depressed curbs. The minimum radius allowed is 4 feet.
3. Distance from Intersection. Driveway access distance from street intersections for all lots created after the effective date of this Regulation and codified in this section shall be subject to the following minimum dimensions, unless otherwise approved as part of an approved site plan.

Nearest Intersecting Street	Driveway Access Located on Collector Streets		Driveway Access Located on Arterial Streets	
	Distances from Intersection		Distances from Intersection	
	In Res. Dist.	In Comm/Ind. Dist.	In Res. Dist.	In Comm/Ind. Dist.
Arterial	100'	150'	150'	200'
Collector	40'	150'	150'	150'
Local	40'	100'	100'	150'

Note: All distances shall be measured from the inside edge of the drive access, extended at its intersection with the projected curb line of the intersecting street.

4. **Drive Access Spacing.** The distance between drive accesses on a public street, except for single-family dwellings, as defined above, shall be measured from inside of drive to inside of drive according to the following specified distances, unless otherwise approved by the road and bridge superintendent as part of an approved site plan.

Average Spacing	Driveway Access Located on Collector Streets		Driveway Access Located on Arterial Streets	
	Res. Dist.	Comm/Ind. Dist.	Res. Dist.	Comm/Ind. Dist.
Partial Access*	60'	80'	80'	150'
Full Access**	100'	150'	100'	150'
Minimum Separation	60'	80'	60'	100'

Notes: * Partial access includes right turn in and out only.
 ** Full access allows all turn movements, in and out.

5. **Number and Location of Drive Accesses.**
 - a. Single-family uses shall be limited to one drive access per street face, except on properties abutting arterial streets in which case circular driveways, or driveways facilitating the turning of automobiles on-site, shall be required. Circular driveways with two openings on a single street frontage may be permitted in A-S and R-S zoning districts.
 - b. Notwithstanding any other provisions of this title, drive accesses may not be located closer than 8 feet to any side property line, unless shared access with the adjoining property is approved.
6. **Shared Drive Access.** The county desires and encourages sharing access drives between separate parcels.
7. **Access Approval Required.** All drive accesses shall be approved for width and location.
8. **Modification of Property Access Standards.**
 - a. Some of the standards listed in subsections 1. through 5. of section 15.09 above, may be modified if it is shown during the site plan review process that more efficient design can be accomplished without jeopardizing the public's health, safety and welfare.
 - b. Modifications from access standards shall be approved at the discretion of the road and bridge superintendent.
 - c. Commercial developments (including residential complexes for four or more families) which may not be able to meet the requirements of subsections 1. through 5. of section 15.09 above, and are requesting modifications from the standards, shall submit to the road and bridge superintendent a report certified by a professional engineer addressing the following site conditions, both present and future:
 - i. Traffic volumes;
 - ii. Turning movements;

- iii. Traffic controls;
- iv. Site design;
- v. Sight distances;
- vi. Location and alignment of other access points.
- d. Based upon the above data, the road and bridge superintendent shall determine whether a modification of the required standards is justified and, if so, what alternative requirements will be necessary.

15.10 Off-Street Loading Berth Requirements.

1. Affected Uses. Every hotel, restaurant, department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment, and all other structures devoted to similar mercantile or industrial pursuits, which has an aggregate gross floor area of 15,000 square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area Devoted to Such Use		Required Number of Berths
15,000 sq. ft. up to and inc.	40,000 sq. ft.	1
40,001 sq. ft. up to and inc.	100,000 sq. ft.	2
100,001 sq. ft. up to and inc.	160,000 sq. ft.	3
160,001 sq. ft. up to and inc.	240,000 sq. ft.	4
240,001 sq. ft. up to and inc.	320,000 sq. ft.	5
320,001 sq. ft. up to and inc.	400,000 sq. ft.	6
400,001 sq. ft. up to and inc.	490,000 sq. ft.	7
For each and every additional	100,000 sq. ft.	1

2. Standards for Off-Street Loading Facilities. All off-street loading facilities shall conform to the following standards:
 - a. The first loading berth shall be at least 70 feet in length. Additional berths required shall be at least 45 feet in length unless certified by the property owner in writing that additional loading activity will take place exclusively with small delivery vans in which case the berth(s) shall be at least 25 feet in length. All loading berths shall be at least 12 feet in width and 14 feet in height, exclusive of aisle and maneuvering space.
 - b. Such space may occupy all or any part of any required yard space, except front and exterior side yards, and shall not be located closer than 50 feet to any lot in any residential zone unless separated from such zone, except at the accesses, by screening not less than 8 feet in height.
 - c. Sufficient room for turning and maneuvering vehicles shall be provided on the site so that vehicles shall cross a property line only by driving forward.

- d. Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley, without traversing a residential district.
- e. The loading area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets or alleys.
- f. Bumper rails shall be provided at locations where needed for safety or to protect property.
- g. If the loading area is illuminated, lighting shall be deflected down and/or away from abutting residential sites so as to cause no annoying glare.
- h. No regular repair work or servicing of vehicles shall be conducted in a loading area.
- i. Off-street loading facilities shall be located on the same site with the use for which the berths are required.
- j. If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this subsection for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required but the aggregate gross floor area is greater than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.
- k. Off-street loading facilities for a single use shall not be considered as providing required off-street loading facilities for any other use.
- l. At the time of initial occupancy, major alterations or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading berth requirements subject to the provisions of Section 28. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement.
- m. Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

15.11 Home Occupations.

- 1. General. A home occupation is a use that is considered accessory to a dwelling unit. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The use shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. When a use is a home occupation, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall

be subject to all conditions set forth in this Regulation, such as off-street parking, and to all other permits required by the county, such as business and health licenses, and shall consult with officials before establishing such home occupation.

2. Necessary Conditions. Home occupations are permitted accessory uses in residential districts only so long as all the following conditions are observed:
 - a. Such occupation shall be conducted solely by resident occupants in their residence with not more than one half-time nonresident employee.
 - b. No more than 25% of the gross area of all structures shall be used for such purpose.
 - c. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure.
 - d. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
 - e. There shall be no outside storage of any kind related to the home occupation
 - f. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.
 - g. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in a residential neighborhood.
3. Examples of the Uses that Frequently Qualify as Home Occupations. Uses which may qualify as home occupations are not limited to those named in this subsection (nor does the listing of a use in this subsection automatically qualify as a home occupation): accountant; architect; artist; attorney-at-law; author, consultant; dressmaking, individual musical instrument instruction; individual tutoring; insurance; and realtor.
4. Uses That Are Prohibited. The following uses shall not be permitted as home occupations: auto repair, minor or major; barbershop; carpentry work; contractor's offices, unless no construction activity or storage of materials and/or equipment occurs at the residence; dance instruction; dental offices; medical offices; painting of vehicles, trailers, or boats; private schools with organized classes; radio and television repair; upholstery; beauty salons.
5. Home Occupation Procedure. Any individual having the intent of operating a business from his/her home, shall acknowledge by signature his/her understanding of the requirements and conditions of Section 15.11 of this Regulation.

Section 16: Site Plan Review and Approval

16.01 Introduction.

1. All development proposals within the zoning jurisdictional area, other than applications for Land Use Permits (**Section 28**), are subject to site plan review and approval.
2. All site plans shall be submitted and approved prior to the issuance of any Land Use Permit.
3. A certificate of occupancy shall be required for all uses and structures that require approval of a site plan. No certificate of occupancy shall be issued for any development for which site plan review is required until certification has been provided demonstrating that all terms and conditions of site plan approval have been complied with.
4. Special development proposals (i.e., PUD's, CUP's, variances, etc.) require other information to be submitted in conjunction with site plans, and are subject to requirements specific to the type of proposal.

16.02 Site Plan Review. A site plan is required for the following applications:

1. Twelve or more dwelling units in a multiple family structure or structures.
2. Fifteen thousand (15,000) or more square feet of office space, retail commercial space, service commercial space or industrial space.
3. More than one building on one site for permitted office uses, permitted retail commercial uses, permitted service commercial uses, permitted industrial uses or permitted combination of uses.
4. Twenty thousand (20,000) or more square feet of exterior storage of materials or goods.
5. Parking for more than 40 vehicles.

16.03 Review Authority.

1. The purpose of site plan review is to prevent demonstrable adverse impacts of the development upon public safety, health or welfare; to protect public investments in roads, drainage facilities, sewage facilities, and other facilities; to conserve the value of adjoining buildings and/or property; and to ensure that all applicable regulations are upheld.

2. The planning department shall review and approve all site plans, subject to the appeal provisions outlined in **Section 33**.

16.04 Site Plan Submittal Requirements. Applications for all site plan approvals shall be submitted to the planning department on forms provided. The site plan application shall be accompanied by the appropriate fee and development plans showing sufficient information for the planning department to determine whether the proposed development will meet the development requirements of the zoning regulations. Five copies of the application and required supplemental information addressing the following shall be submitted:

1. General Information.
 - a. Name of project/development.
 - b. Location/vicinity map.
 - c. Name and mailing address of developer and owner, engineer/architect, landscape architect and/or planner.
 - d. Date of plan preparation and changes.
 - e. Zoning classification of site and adjacent properties.
 - f. Listing of specific land uses being proposed.
 - g. Total number, type and density of proposed residential dwelling units.
 - e. Complete, signed application.
2. Site Plan Information.
 - a. Boundary line of property with dimensions.
 - b. Parcel size in gross acres and square feet
 - c. North point indicator.
 - d. Suggested scale of one inch to twenty feet (1":20'), but not less than one inch to one hundred feet (1":100').
 - e. Location, identification and dimension of the following existing and proposed data:
 - i. Topographic contours, at a minimum of two feet.
 - ii. Adjacent roads and road rights-of-way to a distance of 200 feet.
 - iii. On-site roads and rights-of-way.
 - iv. Ingress and egress points.
 - v. On-site traffic movement.
 - vi. Utility easements.
 - vii. Buildings and structures.
 - viii. Percentage and square footage coverage for buildings, driveways, parking, open space and/or landscaping within the parcel.
 - ix. Ponds, streams, irrigation ditches, and wetlands.
 - x. Federal Insurance Rate Maps designated floodplains.
 - xi. Grading and drainage facilities plan as certified by a licensed engineer.
 - xii. Detail plan of all parking facilities, as per **Section 19**.
 - xiii. Sidewalks, trails, bikeways, driveways, loading areas and docks.

- xiv. Fences and walls.
- xv. Freestanding signs as per **Section 22**.
- xvi. Refuse collection areas.
- xvii. Freestanding exterior lighting.
- xviii. Landscaping as per **Section 18**.
- ixx. Snow storage areas.

16.05 Site Plan Review Criteria.

1. In considering applications for site plan approval, the planning department shall consider the following:
 - a. Relationship of the site plan elements to conditions both on and off the property.
 - b. Conformance with these Regulations, including cessation of any current violations.
 - c. Conformance with all other applicable laws and regulations.
 - d. The impact of the proposal on existing and anticipated traffic and parking conditions.
 - e. Vehicular and pedestrian ingress and egress.
 - f. Building location and setbacks.
 - g. Landscaping and screening.
 - h. Lighting.
 - i. Provision for utilities.
 - j. Site grading and surface drainage.
 - k. Open space.
 - l. Loading and unloading areas.
 - m. Signage.
 - n. Entryway corridor standards.
2. If the planning department determines that the proposed site plan is in compliance with the requirements of this section and all other applicable laws and regulations, approval shall be granted, and such conditions and safeguards may be imposed as deemed necessary.
3. Site plan approval may be denied upon determination that the conditions required for approval have not been met.

16.06 Amendments to Site Plans. Any amendment or modification of an approved site plan shall be submitted to the planning department for review and possible approval. Proposals for further development, reuse, or change in use of sites shall also be reviewed as an amendment to an approved site plan. All amendments shall be shown on a revised site plan drawing. Amendments to approved site plans shall be reviewed and may be approved by the planning department upon finding that the amended site plan is in substantial compliance with the originally approved site plan. If it is determined that the amended site plan is not in substantial compliance with the originally approved site plan, the application shall be

resubmitted as a new application and shall be subject to all site plan review and approval provisions of this section.

Section 17: Entryway Corridor

17.01 Intent. There are several arterial corridors entering the Bozeman area that introduce visitors and residents alike to Bozeman and the Gallatin Valley. It is the intent and purpose of this section to ensure, the quality of development along these corridors will enhance the impression and enjoyment of the community both by guiding development and improvements in signage, landscaping, access and other contributing elements of entry corridor appearance and function. It is further the intent of this section to establish design criteria, standards and review procedures that will allow the county to review and direct, in a fair and equitable manner, the development and redevelopment of future and existing properties and facilities within the entry corridors.

17.02 Application. The provisions of this section shall be applied in addition to any other applicable regulations of this Zoning Regulation. Specifically, these provisions shall be applied to all developments within such corridors as follows:

1. Class I. All development wholly or partially within six hundred sixty feet (660') of the centerline of the following roadways:
 - a. Interstate 90 frontage roads within the Gallatin County/Bozeman Area zoning jurisdictional boundary, whether or not they are designated frontage roads;
 - b. U.S. 10, from the I-90/North Seventh Avenue Interchange west to the Gallatin County/Bozeman Area zoning jurisdictional boundary;
 - c. U.S. 191, west from Ferguson Road to the Gallatin County/Bozeman Area zoning jurisdictional boundary.
2. Class II. All development wholly or partially within three hundred thirty feet (330') of the centerline of the following roadways, with the exception of residentially zoned lots (no exception for R-O district) that have no frontage upon said roadways:
 - a. Nineteenth Avenue, south from Kagy Blvd. to the Gallatin County/Bozeman Area zoning jurisdictional boundary.

17.03 Design Criteria and Development Standards.

1. General Standards.
 - a. The development shall provide for adequate open space, circulation, off-street parking, and pertinent amenities. Buildings, structures and facilities within the parcel shall be integrated, oriented and related to the topographic and natural landscape features of the Gallatin County/Bozeman area.
 - b. The proposed development shall be compatible with existing and planned land use, and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to adjacent or nearby properties or to the environmental character of the area.

- c. The proposed development shall also comply with all applicable design standards and guidelines, including *Design Objectives Plan Entryway Corridors*.
- 2. Access Standards.
 - a. Initial access provision to properties fronting on any Class I entryway corridor roadway shall be designed so access points on said roadway are spaced no more closely than every six hundred sixty feet (660'). Initial access provision to properties fronting on any Class II entryway corridor roadway shall be designed so access points on the roadway are spaced no more closely than every three hundred thirty feet (330') or one city block.
 - b. Revised access schemes to previously developed or subdivided property shall consolidate access points on entryway roadways whenever possible and shall add no additional points of access to the roadways unless such addition can be demonstrated to improve the operation of the entryway roadway. It shall be the obligation of the applicant to determine an acceptable method of access to his/her property including securing access easements from adjacent properties, if necessary.
 - c. When addressing pre-existing development in fully built-up areas, these access standard provisions shall be interpreted in a practical manner allowing for continuing reasonable access to properties along entryway corridors.
- 3. Parking, Building and Landscape Standards. In addition to the qualitative design standards and guidelines in the *Design Objectives Plan Entryway Corridors*, parking areas and buildings shall be set back at least fifty feet (50') from any Class I entryway corridor roadway right-of-way and at least twenty-five feet (25') from any Class II entryway corridor roadway right-of-way. The setback from any entryway corridor roadway right-of-way shall be landscaped, including the screening or buffering of parking areas, through the use of berms, depressed parking, native landscape materials surrounding and within parking areas, or other means in order to preserve the area's natural views.

17.04 Variance from Overlay or Underlying Zoning Requirements.

- 1. To accomplish the intent and purpose of this section it may be necessary to vary from the strict application of the overlay or underlying zoning requirements. A special exception to vary from the underlying zoning requirements may be granted by the Board of Adjustment after considering staff review and comments.
- 2. The application for variance shall be subject to the submittal and procedural requirements of Section 31, Variances, and shall be accompanied by written and graphic material sufficient to illustrate the conditions that the modified standards will produce, so as to enable the Board of Adjustment to make the determination that the variance will be consistent with the intent and purpose of this section, and with the *Design Objectives Plan Entryway Corridors* for the particular entryway corridor.

Section 18: Landscaping

18.01 Purpose. The economic base of Gallatin County can be protected through the preservation and enhancement of the area's unique natural beauty and environment. Recognizing that the general objectives of this section are to promote and protect the health, safety and welfare of the public, these landscaping regulations as part of this Zoning Regulation are adopted for the following specific purposes:

1. To aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, groundwater recharge and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement;
2. To provide visual buffering between land uses of differing character;
3. To enhance the beauty of the zoning jurisdiction;
4. To protect the character and stability of residential, business, institutional and industrial areas;
5. To preserve the value of land and buildings; and
6. To conserve energy.

18.02 Application.

1. The provisions of this section shall apply to a lot or site when an application is being made for:
 - a. Site plan approval pursuant to Section 16;
 - b. Signs pursuant to Section 22 where landscaping is required;
 - c. Restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind. For purposes of this paragraph, "restoration" means the act of putting back into a former or original state, only.
2. Notwithstanding the application of subsection 1 above, these provisions shall not apply to the following:
 - a. Lots containing only single-family and/or residential duplex uses when located outside entryway corridors, except that such lots shall be subject to subsection **46.040.C** (Street Frontage Landscaping Required);
 - b. Lots or sites within an approved planned unit development which has been approved with its own landscape plan;
 - c. Lots or sites which are designed, reviewed and approved according to the variance provisions specified in subsection **46.060 below**.

18.02 Definitions.

1. All words used in these Regulations shall be first defined as provided herein, and, if not defined herein, shall be defined as in the definition of terms of ARTICLE VI of

these Regulations, and if not defined therein, shall have their customary dictionary definitions.

2. The following rules of interpretation and definitions apply: (1) the present tense includes the future tense; and (2) all words in the plural number include the singular number unless the natural construction of the wording indicates otherwise; and (3) the word *shall* is always mandatory; and (4) the word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as individual or individuals; and (5) the word *used* as applied to any land or structures, shall be construed to include the words *intended*, *arranged*, or *designed to be used*, or *occupied*.
 - a. Artificial lot. An area within the building site that is delineated by the Zoning Enforcement Agent for the sole purpose of satisfying the requirements of this section. An artificial lot need not be platted, however it must be designated on plans approved by the planning department.
 - b. Berm. A mound of earth two (2) to six feet (6') high, planted with vegetative groundcover, with a slope not exceeding one foot (1') of rise for each two feet (2') of run.
 - c. Caliper. The diameter of the trunk measured six inches (6") above ground level up to and including four inch (4") caliper size, and measured twelve inches (12") above ground level if the measurement taken at six inches (6") above ground level exceeds four inches (4"). If a tree is of a multi-trunk variety, the caliper of the tree is the average caliper of all of its trunks.
 - d. Canopy tree. A species of tree which normally bears crown foliage no lower than six feet (6') above ground level upon maturity.
 - e. Enhanced pavement. Any permeable or nonpermeable decorative pavement material intended for pedestrian or vehicular use. Examples of enhanced pavement include brick or stone pavers, grass paver, exposed aggregate concrete, and stamped and stained covered pavement.
 - f. Evergreen tree or shrub. A tree or shrub of a species which normally retains its leaves/needles throughout the year.
 - g. Groundcover. Natural mulch or plants of species which normally reach a height of less than two feet upon maturity, installed in such a manner so as to form a continuous cover over the ground.
 - h. Landscape architect. A person licensed to practice landscape architecture in the state of Montana.
 - i. Landscaping. At least seventy-five percent (75%) coverage of an area with natural grass, vegetative groundcover, or other natural living plant materials, the remainder of which is covered with nonvegetative decorative landscape design elements such as washed rock, lava rock, bark chips, and ornamental features such as pools, fountains, benches, etc. For purposes of these Regulations, the term landscaping shall be considered to have the same meaning as the terms landscape, landscaped and landscaped area.

- j. Large shrub. A shrub which normally reaches a height of five feet (5') or more upon maturity, and usually has five or more canes.
- k. Lot. A piece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required by these Regulations, and having its principal lot frontage on a street.
- l. Lot with residential adjacency. Pertains to the following:
 - i. A building site in a residential zoning district, if the site abuts or is directly across a public street or alley from an R-LD, R-MD or R-O zoning district;
 - ii. A building site in a nonresidential zoning district, if the site abuts or is directly across a public street or alley from an A-S, R-S, R-LD, R-MD or R-O zoning district;
 - iii. An artificial lot in a residential district, if the lot is less than two hundred feet (200') from an R-LD, R-MD or R-O zoning district;
 - iv. An artificial lot in a nonresidential zoning district, if the lot is less than two hundred feet (200') from an A-S, R-S, R-LD, R-MD or R-O zoning district.
- m. Nonpermeable coverage. Coverage with nonpermeable pavement. "Nonpermeable pavement" means any pavement that is not "permeable pavement" as defined in this section.
- n. Permeable pavement. A paving material that permits water penetration to a soil depth of eighteen inches (18") or more. Permeable pavement may consist of nonporous surface materials poured or laid in sections not exceeding one square foot in an area and collectively comprising less than two-thirds of the total surface area.
- o. Screening. A method of visually shielding or obscuring an abutting or nearby structure or use from another through the use of densely planted vegetation and/or berms.
- p. Small tree. A tree of a species which normally reaches a height of less than twenty-five feet (25') upon maturity.
- q. Soil. A medium in which plants will grow.

18.03 General Landscaping Provisions.

- 1. Designation of Artificial Lot. If a building site is over two (2) acres in size, the applicant may request that the Zoning Enforcement Agent create an artificial lot to satisfy the requirements of this section. An artificial lot must be a delineated area on which the development is to occur, and have an area that does not exceed fifty percent (50%) of the area of the original site.
- 2. Landscape Plan Submission.
 - a. Submittal with Site Plan Application. If these landscape regulations apply to a lot or site subject to plan review and approval outlined in Section 16, a separate landscape plan shall be submitted as part of the site plan application

unless the required landscape information can be included in a clear and uncluttered manner on a one inch to twenty feet site plan.

- b. The landscape plan submittal shall include:
 - i. Two blueline or blackline copies of the plan;
 - ii. Maximum scale of one inch to twenty feet (1"=20');
 - iii. Standard drawing sheet of a size not to exceed twenty-four inches by thirty-six inches (24"x36"); a plan which cannot be drawn entirely on a twenty-four inch by thirty-six inch sheet must be drawn on two or more sheets, with match lines.
- c. Landscape plans shall be prepared and certified by:
 - i. A registered Montana landscape architect;
 - ii. An individual with a degree in landscape design and two years of professional design experience; or
 - iii. An individual with a degree in a related field (such as horticulture, botany, plant science, etc.) and at least five years of professional design experience.
- d. A landscape plan shall contain the following information:
 - i. Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan;
 - ii. Location of existing boundary lines and dimensions of the lot, the zoning classification of the lot, and the zoning classification of adjacent properties. A vicinity map should also be attached on or made a part of the plan;
 - iii. Approximate centerlines of existing water courses and the location of any one hundred-year floodplain; the approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, utility easements, utility lines, driveways, and sidewalks on the lot and/or adjacent to the lot;
 - iv. Project name, street address, and lot and block description;
 - v. Location, height and material of proposed screening and fencing (with berms to be delineated by one-foot contours);
 - vi. Locations and dimensions of proposed landscape buffer strips;
 - vii. Complete landscape legend providing a description of plant materials shown on the plan, including typical symbols, names (common and botanical name), locations, quantities, container or caliper sizes at installation, heights, spread, and spacing. The location and type of all existing trees on the lot over six inches in caliper must be specifically indicated;
 - viii. Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas and the number and location of required off-street parking and loading spaces;
 - ix. An indication of how existing healthy trees (if any) are to be retained and protected from damage during construction;

- x. Size, height, location, and material of proposed seating, lighting, planters, sculptures, and water features;
- xi. A description of proposed watering methods;
- xii. Location of visibility triangles on the lot (if applicable);
- xiii. Designated snow removal storage areas;
- xiv. Complete description and details of pavement, curbs, sidewalks and gutters;
- xv. Front and side elevations of buildings, fences and walls with height dimensions;
- xvi. Show location of existing and/or proposed drainage facilities which are to be used for drainage control;
- xvii. Existing and proposed grade;
- xviii. Location, dimension (size and height) and use of existing and proposed buildings, fences and walls. Show open stairways and other projections from exterior building walls;
- ixx. Table of landscape performance point totals as per section 18.05 below.

3. Landscape Plan Review.

- a. The planning staff shall review each landscape plan to determine whether or not it complies with the requirements of this section.
- b. All landscape plans must comply with the mandatory landscape provisions in section 18.04 below.
- c. In addition, all landscape plans must earn a minimum number of points as specified in subsection 18.05. Points are awarded for specified landscape features and elements based upon their relative value or merit. The alternatives for achieving the minimum points needed for approval are provided in section 18.05, Landscape Performance Standards, below.

18.04 Mandatory Landscaping Provisions.

- 1. Yard Landscaping Required. For all uses in all districts, unless otherwise provided by specific approval through a planned unit development, all front, side, and rear yards, exclusive of permitted access drives, parking lots, and accessory structures, shall be landscaped as defined herein. All landscaped areas shall be perpetually maintained in a healthy condition.
- 2. Parking Lot Landscaping. For purposes of defining parking lot landscaping requirements, the term "parking lot" means the area within the perimeter of the paved portion of the parking lot, including driving aisles but not including access drives. All surface parking lots on the building site or artificial lot, whichever is applicable, shall be landscaped in accordance with the following paragraphs which describe landscaping requirements in addition to the yard landscaping requirements for the site:
 - a. Parking Lot Screening Required.

- i. All parking lots located on a lot with a residential adjacency must be screened from that residential adjacency.
 - ii. All parking lots located between a principal structure and a public street, except in the M-I district, must be screened from the public street.
 - iii. The screening required shall be not less than eight feet (8') in width and shall be maintained at a height of four to six feet (4'-6') except as otherwise restricted by fence and hedge height limits within required front yards and site triangles.
- b. Large canopy trees, large non-canopy trees or small trees must be provided in, or immediately adjacent to, all parking lots at a minimum average density of:
 - i. One large canopy tree; or
 - ii. One large non-canopy tree and one small tree; or
 - iii. Three small trees; for each nine parking spaces required or provided, whichever is greater.
- c. No parking space may be located more than ninety feet (90') from the trunk of a tree.
- d. No tree may be planted closer than four feet (4') to the paved portion of the parking lot.
- e. Additionally, any parking lot providing fifteen (15) or more parking spaces shall have a minimum of twenty (20) square feet of landscape area within the parking lot for each off-street parking space in the lot provided as follows:
 - i. Wherever possible, the interior parking lot landscaping shall be designed to facilitate, control and denote proper vehicular circulation patterns.
 - ii. Internal parking lot landscaping provided shall be proportionately dispersed so as to define aisles and limit unbroken rows of parking to a maximum of one hundred feet (100'), with landscaped areas provided in an appropriate scale to the size of the parking lot.
 - iii. The minimum width and/or length of any parking lot landscaped area shall be eight feet (8').
- f. The above standards are minimum mandatory standards which may be superseded by the provisions of section 18.05 below, for receipt of performance standard points.
- g. Screening of Off-Street Loading Spaces.
 - i. All off-street loading spaces on a lot with residential adjacency must be screened from that residential adjacency.
 - ii. In all districts except the M-I district, all off-street loading spaces on a lot must be screened from all public streets adjacent to that lot.
 - iii. The screening must be at least six feet (6') in height.

3. Street Frontage Landscaping Required.

- a. Except in A-S and R-S districts, all road rights-of-way contiguous with the proposed development site not used for road pavement, curbs, gutters,

sidewalks or driveways shall be landscaped as defined in this title and shall include, at a minimum, one large canopy tree for each fifty feet (50') of street frontage. Acceptable large canopy shade trees for use in public rights-of-way include the following species:

- Ash, Summit Green (*Fraxinus; pennsylvanica*).
 - Honeylocust, Seedless (*Gleditsia triacanthos*).
 - Hackberry, Common (*Celtis occidentalis*).
 - Linden, American (*Tilia americana*).
 - Linden, Littleleaf (*Tilia cordata*).
 - Locust, Black (*Robinia pseudoacacia*).
 - Maple, Norway (*Acer platanoides*).
 - Maple, Schwedler (*Acer platanoides* "Schwedler").
 - Maple, Sugar (*Acer saccharum*).
 - Mountain Ash, European (*Sorbus aucuparia*).
 - Oak, Bur (*Quercus macrocarpa*).
 - Walnut, Black (*Juglans nigra*).
- b. Where it may be impractical or difficult to plant large canopy trees within the public right-of-way (due to the presence of overhead power lines, for instance) the requirement for one large canopy tree for each fifty feet (50') of street frontage may be substituted with two small ornamental trees per fifty feet (50') of street frontage. Acceptable small ornamental trees for use in public rights-of-way include the following species:
- Chokecherry, Amur (*Prunus maackii*).
 - Crabapple, many species (*malus* spp.).
 - Hawthorn (*Crataegus* spp.).
 - Lilac, Japanese Tree (*Syringa reticulata*).
 - Maple, Amur (*Acer ginnala*).
 - Maple, Tatarian (*Acer tataricum*).
- c. Street Median Island Landscaping. All street median islands approved through a plan review process shall be landscaped according to requirements determined through the plan review process.

4. Acceptable Landscape Materials.

- a. Acceptable plant materials shall be those listed in *General Selection Factors for Landscape Trees and Shrubs* by Cooperative Extension Service, Montana State University, Circular No. 1280, October 1982. However, in the case of street frontage landscaping as required in subsection 18.04(3) above, acceptable tree species shall be limited to those listed therein.
- i. No artificial plant materials may be used to satisfy the requirements of this section.
- b. Plant materials used to satisfy the requirements of this section must comply with the following minimum size requirements at the time of installation (depending on the standard measuring technique for the species).

- i. Large trees must have a minimum caliper of one and one-half inches to two inches (1-½" to 2"), or a minimum height of ten feet (10').
 - ii. Small trees must have a minimum caliper of one inch to one and one-half inches (1" to 1-½") or a minimum height of eight feet (8').
 - iii. Large evergreen shrubs must have a minimum height of two feet (2') or, if of a spreading form, a minimum spread of two feet (2').
 - iv. For purposes of this section, height is measured from the top of the root ball or, if the plant is in a container, from the top soil level in the container.
- c. Protection of Landscape Areas.
 - i. Perimeter parking lot treatment as required in subsection 19.02(7) (Parking Lot Curbing) shall be installed to protect landscape areas adjacent to parking lots.
 - ii. Landscape areas within parking lots (i.e., landscape islands or peninsulas) must be protected from vehicular traffic through the use of continuous concrete curbs, or other permanent barriers approved by the road and bridge superintendent. Railroad ties, rolled asphalt, pin down wheel stops or similar methods of curbing are not acceptable methods of landscape protection within parking lots.
- d. Irrigation Standards.
 - i. Permanent irrigation systems shall be provided to all landscaped areas. The use of hose bibs on the exterior of existing or proposed structures is not an acceptable method of landscape irrigation unless the landscaped area is adjacent to the existing or proposed structure.
 - ii. All irrigation systems and landscaped areas shall be designed, constructed and maintained so as to promote water conservation and prevent water overflow or seepage into the street, sidewalk or parking areas.
- e. Required Use of Trees. All landscape plans must include, for each yard with a residential adjacency (as defined), at least one of the performance standards in subsection 18.05(2)(b) below that requires the use of one or more trees.

18.05 Landscape Performance Standards.

1. Additional Requirements. In addition to complying with the mandatory landscape provisions in section 18.04 above, all landscape plans must earn a minimum number of points as specified below. Points are awarded for specified landscape features and elements based upon their relative value or merit. The minimum number of points needed for landscape plan approval by zoning district is as follows. The alternatives for achieving the minimum points needed for approval are provided below.
2. Yard Landscaping Enhancement. An applicant may earn points under this subsection by enhancing mandatory yard landscaping as follows:

YARD LANDSCAPING ENHANCEMENT	Lot With Residential	Lot Without Residential
POINTS	Adjacency	Adjacency
All districts except N-S district and PUDs	23	15
N-S	18	15
PUD	Each proposal within a planned unit development will be evaluated on the basis of the overall design excellence of the proposal with consideration to the points required by the most applicable zoning district and applicable residential adjacency.	
<div><div>a.</div><div>Three points are awarded when the landscaped yard has a minimum average width five feet to ten feet (5'-10') greater than the minimum yard required by these Regulations. Five points are awarded if the minimum average width is more than ten feet greater (>10') than the minimum yard required by these Regulations.</div></div> <div><div>b.</div><div>Five points per yard (up to fifteen points maximum) are awarded when the landscaped yard contains one or more of the following groups of plant materials at a minimum average density of one group for each fifty linear feet (50') of each landscaped yard:<div><div>i.</div><div>One large canopy tree and one large non-canopy tree;</div></div><div><div>ii.</div><div>One large canopy tree and two small trees;</div></div><div><div>iii.</div><div>One large canopy tree and five evergreen shrubs;</div></div><div><div>iv.</div><div>One large canopy tree, one small tree, and two large evergreen shrubs;</div></div><div><div>v.</div><div>Two large non-canopy trees, and one small tree.</div></div></div></div> <div><div>c.</div><div>In the case of a lot with residential adjacency only, eight points are awarded for providing vegetative screening in the landscaped yard with residential adjacency in accordance with the following subparagraphs:<div><div>i.</div><div>The screening must be of natural vegetation at least six feet (6') in height;</div></div><div><div>ii.</div><div>The screening must extend along the entire length of the portion of the landscaped yard where a residential adjacency exists, exclusive of public street frontage, driveways and accessways at points of ingress and egress to the lot, and visibility triangles.</div></div><div><div>iii.</div><div>However, no points are awarded for screening required by subsection 18.04(2) above unless the required screening is constructed of earthen berm or evergreen plant materials;</div></div></div></div> <div><div>d.</div><div>If screening is provided by an earthen berm or evergreen plant materials, the following additional regulations apply:<div><div>i.</div><div>An earthen berm must be planted with groundcover. The earthen berm may not have a slope that exceeds one foot of rise for each two feet of run and must be at least four feet (4') high, including planting materials, subject to front yard and sight triangle height limitations.</div></div><div><div>ii.</div><div>Evergreen plant materials must be located in a bed that is at least three feet (3') wide, be placed a maximum of forty-eight inches (48") on center over the entire length of the bed unless an alternative planting density that a landscape architect certifies as being capable</div></div></div></div>		

- of providing a solid appearance within three years is approved, and provide a visual barrier of the required height within three years of their initial planting.
- e. **Parking Lot Landscaping.** Ten points are awarded when all surface parking lots, as defined in subsection 18.04(2) of this section on the building site or artificial lot whichever is applicable, are landscaped in accordance with all of the following paragraphs:
 - i. A minimum of twenty (20) square feet of landscape area must be provided in the parking lot for each required off-street parking space in the lot;
 - ii. The parking lot must contain one of the plant groups from subsection 2.b of this section above at an average density of one group, plus an additional one large canopy tree, for each required sixteen (16) parking spaces;
 - iii. No required parking space may be located more than seventy feet (70') from the trunk of a large canopy tree.
 - f. **Pedestrian facilities.** One point is awarded for each one percent (1%) increment of lot area covered by publicly accessible special pedestrian facilities and features such as plazas, courtyards, covered walkways, fountains, lakes, streams and ponds, seating areas, and outdoor recreation facilities, up to a maximum of five points.

18.06 Landscaping Completion and Maintenance.

1. **Landscaping Completion.** All landscaping must be completed or improvements secured in accordance with the provisions of **Section 27**.
2. **General Maintenance.**
 - a. Required landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any plant that dies must be replaced with another living plant that complies with the approved landscape plan. Failure to maintain required landscaping in a healthy growing condition at all times may result in revocation of permit. When enforcing this provision of this section, external factors such as seasonality and availability of landscape stock shall be considered before any action to revoke a permit is taken.
 - b. Any damage to utility lines resulting from the negligence of the property owner or his agents or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials and return them to their prior locations after the utility work. If, nonetheless, some plant materials die, it is the obligation of the property owner to replace the plant materials.

- c. Maintenance of landscaping installed within the boulevard portion of the public right-of-way shall be the responsibility of adjacent property owners.

Section 19: Parking

19.01 Floor Area.

1. The term "floor area," for the purpose of calculating the number of off-street parking spaces required, shall mean the "gross floor area," measured on the basis of the exterior-area dimensions of the building, minus the following:
 - a. Window display areas;
 - b. Storage areas;
 - c. Areas used for incidental repair of equipment used or sold on the premises;
 - d. Areas occupied by toilets and restrooms;
 - e. Areas occupied by public utility facilities;
 - f. Areas occupied by dressing rooms, fitting or alteration rooms incidental to the sale of clothing;
 - g. Areas occupied by stairways and elevators;
 - h. Corridors connecting rooms or suites of rooms.
2. Provided, however, at the election of the owner thereof, floor area shall mean eighty-five percent (85%) of the gross floor area of the building (*without* deduction of exceptions subsection 1. set above). Such election shall be made in writing to the Zoning Enforcement Agent, shall be signed and acknowledged by the owner and shall be filed with the Zoning Enforcement Agent prior to the issuance of a land use permit for such building. The owner shall also be responsible for certifying other information upon which parking requirements may be based, such as seats, and the number of employees on maximum working shift.
3. Where applicable, the number of spaces required in section 19.04 below will be the total of the spaces required for the component activities of certain uses, each calculated separately.

19.02 Design and Improvement Standards.

1. Parking Dimensions. The following shall be the minimum parking space dimensions for surface parking:

Angle	Width ¹			Length			Aisle Width
	Standard	Disabled	Compact ⁵	Standard	Disabled	Compact ⁵	
90°	9'	13'	8'	18/20' ²	18/20' ²	16'	26' ³
60°	9'	13'	8'	18/20'	18/20'	16'	18/23' ⁴
45°	9'	13'	8'	18/20'	18/20'	16'	15/23' ⁴

Notes:

1. *As measured by a line perpendicular to the stall line at a point on the outside end of the stall. Except when the stall is on the inside edge of a curve, in which case the point of measurement shall be on the inside end of the stall.*
2. *Eighteen feet if measured from a curb on the inside edge of the stall; twenty feet if measured from a painted line on the inside edge of the stall. Stall length variations are subject to approval.*

3. *For ninety-degree parking, aisles are two-way.*
 4. *First number refers to one-way traffic; second number to two-way traffic. If the aisle is needed as a fire lane, a twenty-foot minimum is required.*
 5. *Unless otherwise approved, all parking spaces shall be of standard width and length. In any parking facility containing twenty or more parking spaces, a maximum of twenty-five percent of the required parking spaces may be reduced in size for small cars, provided these spaces shall be clearly identified with a sign permanently affixed immediately in front of each space containing the notation, "Compacts Only." Where feasible, all small car spaces shall be located in one or more contiguous areas and/or adjacent to ingress-egress points within parking facilities. Location of compact car parking spaces shall not create traffic congestion or impede traffic flows.*
2. **Circulation Between Bays.** Except in the case of one to three-family dwellings and individual townhouse units, parking areas shall be designed so that circulation between parking bays occurs within the designated parking lot and does not depend upon a public street or alley.
 - a. **Backing into Public Right-of-Ways.** Except in the case of one to three-family dwellings and individual townhouse units, parking area design which requires backing into the public street or alley is prohibited. In all cases where backing occurs, the required aisle width shall be provided. The aisle width calculation may incorporate the width of the public right-of-way.
 3. **Parallel Parking Spaces.** Parallel parking spaces shall be a minimum of twenty-four feet (24') in length.
 4. **Surfacing.** Except for single-family development on individual lots, all areas intended to be utilized for permanent parking space and driveways shall be paved with concrete or asphaltic concrete, or approved pavers, to control dust and drainage. All proposed parking areas and driveway improvements shall require a grading and drainage plan.
 - a. Paving shall not be required for permitted and conditional uses in the A-S and R-S zoning districts when all of the following circumstances exist:
 - i. The use is required to provide fewer than fifteen (15) parking spaces and no loading spaces under the provisions of this section;
 - ii. The lot or tract on which the use is located is not adjacent to a paved street or road; and
 - iii. The applicant shall enter into an improvements agreement with the county agreeing that the lot shall be paved within nine months of the time an adjacent roadway is paved.
 - b. **Striping.** Except for one to three-family dwellings and individual townhouse units, all parking stalls shall be marked with painted lines not less than four inches wide.
 5. **Lighting.** Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light down and/or away from adjoining property, abutting residential uses and public rights-of-way, and shall be in compliance with the lighting restrictions in section 15.02.8.

6. Signs. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking area. All signs shall conform to the requirements of Section 22.
7. Parking Lot Curbing.
 - a. Except for individual townhouse units and one to three-family dwellings, all open off-street parking areas and driveways shall have a six inch by six inch perimeter concrete curb around the entire parking lot, including driving access ways. Continuous concrete curbing shall be built according to standards provided by the road and bridge superintendent.
 - b. Concrete pin-down wheel stops may be permitted as an alternative to continuous concrete curbing in front of parking spaces which front on the perimeter of the parking lot. However, continuous concrete curbing as described above shall be provided in all situations where deemed necessary by the road and bridge superintendent to control drainage and soil erosion.
 - c. Alternative perimeter treatment may be permitted adjacent to snow storage areas subject to approval.
 - d. Requirements for perimeter curbing shall not preclude opportunities for shared access between adjacent parking lots.
 - e. All on-site parking stalls which abut property lines shall be designed and constructed such that parked vehicles shall not protrude over property lines.
8. Pedestrian Facilities in Parking Lots. Concrete sidewalks a minimum of three feet in width shall be provided between any existing or proposed building and adjacent parking lot. Where sidewalk curbs serve as wheel stops, an additional two feet of sidewalk width is required.
9. Snow Removal Storage Areas. Snow removal storage areas shall be provided sufficient to store snow accumulation on site. Such areas shall not cause unsafe ingress/egress to the parking areas, shall not cause snow to be deposited on public rights-of-way, shall not include areas provided for required parking access and spaces, and shall not be placed in such a manner as to damage landscaping. All snow removal storage areas shall be located and designed such that the resultant storm water runoff is directed into landscaped retention/detention and water quality improvement facilities as required or in compliance with any adopted storm drainage ordinance.
10. Parking and Stacking for Drive-In/Drive Through Facilities. Required parking and stacking spaces for waiting automobiles shall be determined and shall not in any manner inhibit onsite or off-site vehicular circulation.
11. Ownership/Leasehold. Required parking lots shall be owned or leased by the owner or lessee of the building or use being served by such parking. Such parking lots shall be maintained as a parking lot so long as the building and/or use served is in

operation or until another approved parking area is established for such building or use.

12. Storm Water Drainage. Storm water drainage from parking lots shall be directed into landscaped detention/retention facilities and water quality improvement facilities as required or in compliance with any adopted storm drainage ordinance.

19.03 Maintenance.

1. Responsibility. It shall be the joint and separate responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences or screening.
2. Use of Required Parking Areas for Parking Only. Required off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, except when permitted as a temporary use.
3. Parking Spaces Identified and Maintained. All residential occupancies shall provide required off-street parking spaces. When enclosing a carport or garage for storage or living purposes, an affidavit shall be submitted to the Zoning Enforcement Agent identifying the required parking spaces necessary to comply with subsection 19.04 below.

19.04 Number of Spaces Required.

1. Minimum Requirements. The following minimum number of off-street, paved parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses. All site plans submitted for permit purposes shall identify parking space allocations.

Dwelling Types (residential)	Off-Street Parking Spaces Required	
	With On-Street Parking (Spaces/Unit)	Without On-Street Parking (Spaces/Unit)
Single-Family	2.00	3.00
Mobile Homes	2.00	3.00
Two-Family	2.00	3.00
Three-Family	2.25	2.25
Four-Family	2.25	2.25
Townhouse	2.00	2.25
Apartments	2.00	2.20
Group homes and community residential facilities	1 space per potential guest room	1 space per potential guest room
Efficiency unit	1.25	1.25
Bed and breakfast	1.00 space/rental unit	1.00 space/rental unit
Lodginghouse	1.25	1.25

Non-Residential Uses	Off-Street or Off-Road Parking Spaces Required
Automobile sales	1 space per 200 square feet of indoor floor area, plus 1 spaces per 20 outdoor vehicle display spaces
Automobile service station	2 spaces per service stall, but no less than 4 spaces
Automobile washing establishment -Automatic drive-through -Self-service	3 spaces or 1 for each employee on maximum shift, plus stacking space 2 spaces per stall not including washing or drying spaces
Bank, financial institutions	1 space per 300 square feet
Bowling alley	4 spaces per alley, plus 2 spaces per billiard table, plus 1 space per each 5 visitor gallery seats
Church	1 space per 4 seats or 6 linear feet of space in each building based upon design capacity of main assembly hall; Public assembly areas, recreational buildings - 1 per 200 square feet; Classroom - 1 space per 4 seats
Community or recreation center	1 space per 200 square feet of floor area
Dancehalls, skating rinks or similar uses	1 space per 300 square feet of floor area
Court clubs (racquetball, handball, tennis)	1 space per 200 square feet of floor area, plus 3 spaces per court
Day care centers	1 space per 200 square feet of floor area
Elderly (senior citizens) housing	1 space per unit
Furniture stores over 20,000 square feet	3 spaces per 1,000 square feet of floor area
Golf courses	1 space per 200 square feet of main building floor area, plus 1 space for every 2 practice tees in driving range, plus 4 spaces per each green in the playing area
Hospitals	1 space per bed
Medical and dental offices	4 spaces for each full time equivalent doctor or dentist, plus 1 space for each full time equivalent employee
Manufacturing and industrial uses	1 space per 1,000 square feet of floor area, plus 1 space per 2 employees on maximum working shifts
Motels, Hotels -Restaurants, bars, dining rooms -Commercial area -Public assembly areas	1.1 spaces per each guest room, plus 1 space per employee on maximum shift, plus spaces for accessory uses as follows: 1 space per sixty square feet 1 space per each 400 square feet of floor area 1 space for each 5 seats based upon design capacity, except that Total off-street or off-road parking for public assembly may be reduced by 1 space for every 4 guest room
Nursing homes, rest homes or similar uses	4 spaces, plus 1 space for each 3 beds, plus 1 space for each employee on maximum shift
Offices, except med. and dental	1 space per 250 square feet of floor area with a minimum of 4

Outdoor sales (plant nurseries, building materials, equipment rental and similar)	1 space per 500 square feet of sales and/or display area. The size of the sales and/or display area shall be determined on a case by case basis.
Restaurants, cafes, bars and similar uses	1 space per 50 square feet of indoor public serving area, plus 1 space per 100 square feet of outdoor (patio) area
Retail store and service establishments	1 space per 300 square feet of floor area
Sales sites; model homes	1 space per 150 square feet of model floor areas; plus 1 space per employee
Schools -Elementary and/or Junior high -Senior High -Business or similar school	1.5 spaces for each classroom, library, lecture hall and cafeteria, plus 1 space per each 3 fixed seats in the in area of public assembly, or 1 space for each 21 square feet of area available for public assembly if fixed seats are not provided. 1.5 spaces for each classroom or lecture hall, plus 1 space per each 5 students, plus 1 space for each non-teaching employee, plus 1 space per each 3 fixed seats in the area of public assembly, or 1 space per 21 square feet of area available for public assembly if fixed seats are not provided. 1 space for each 1.25 students
Theater, Auditorium or similar	1 space per 4 seats based upon place of assembly design capacity
Warehousing, storage or handling of bulk goods	1 space per 1,000 square feet of floor area devoted to storage of goods, plus: appropriate spaces to support accessory office or retail sales facilities at one space per 300 square feet of floor area

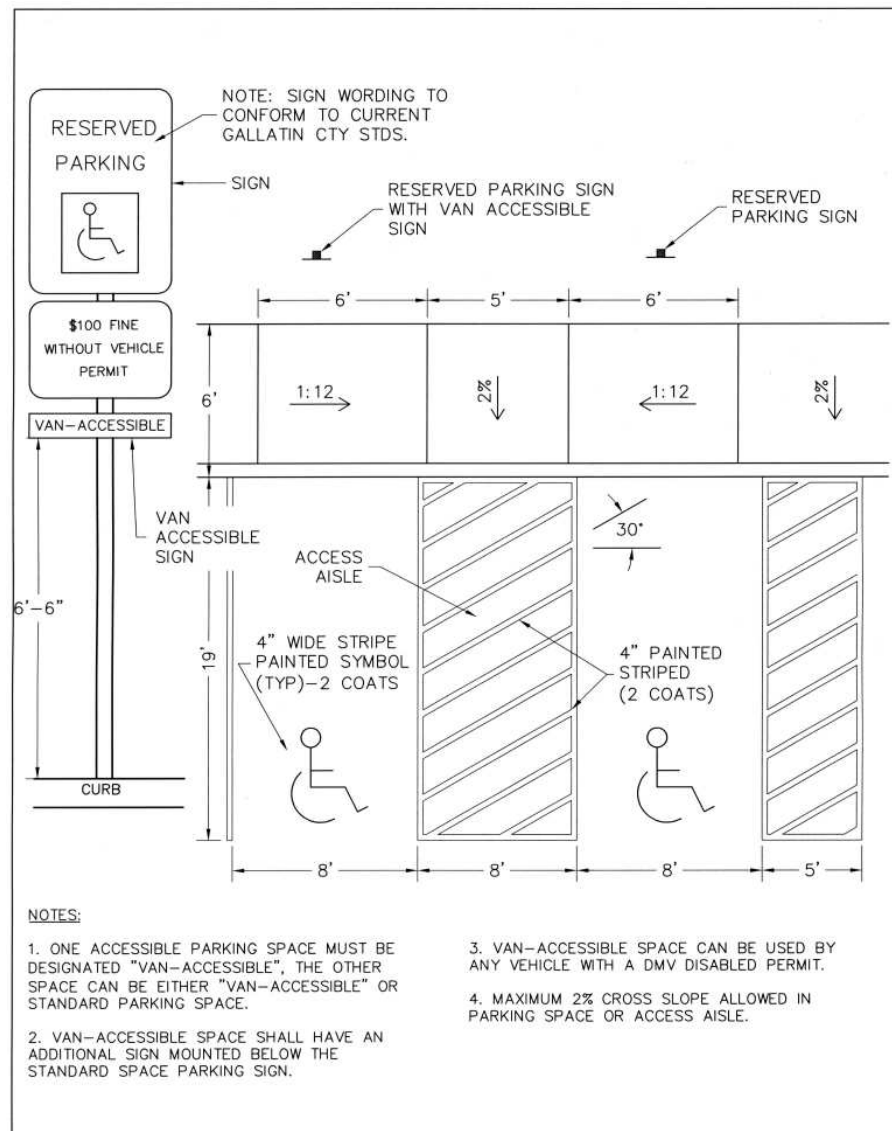
2. Disabled Accessible Parking Spaces.

- a. Disabled parking spaces shall be provided subject to federal standards enumerated in the Americans with Disabilities Act (ADA) dated January 26, 1992, and Federal Standard 795, (Uniform Federal Accessibility Standards) dated April 1, 1988, Section 4 (Accessible Elements and Spaces: Scope and Technical Requirements).
- b. All parking lots and facilities shall be subject to current Uniform Building Code guidelines for accessibility, and shall contain a minimum number of disabled accessible parking spaces as set forth in the table below:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

- i. One in every eight (8) accessible spaces shall have an aisle eight feet (8') wide (rather than five feet) and shall be signed "van accessible."
 - ii. Accessible spaces shall be located as near as practical to a primary entrance(s) and shall be designated as those spaces closest to the primary entrance(s) to a facility. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 in all directions and shall be maintained in an ice and snow free condition.
 - iii. The minimum number of accessible parking spaces shall be in addition to any required parking spaces.
- c. All accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility at each space. Such signs shall not be obscured by a vehicle parked in the space. Signs and symbols painted on the pavement as the only means of identification, do not meet this requirement. Raised signs shall be located at a distance no greater than six feet from the front of each accessible space and shall be subject to review and approval by the planning department.



Accessible Parking Signage & Striping Detail

- d. Provision of an accessible path of travel from each disabled accessible parking space to the entrance of the facility shall include ramped access where necessary and an unencumbered minimum three-foot wide walk, sidewalk or ramps. The accessible path of travel shall be paved, smooth surface, free of defects or design features that would restrict, inhibit or unreasonably impede the movement of a physically disabled individual. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12, cross slopes shall not exceed one-quarter inch per foot. The maximum rise for any run shall be thirty inches (30" or seven hundred sixty millimeters).

- e. Exception: Group R occupancies containing three or less dwelling units or congregate residences accommodating ten persons or less.

3. Joint Use of Parking Facilities.

- a. Up to eighty percent (80%) of the parking facilities required by this subsection for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities by the following daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale and similar uses.
- b. Other joint use of parking by adjacent commercial uses to reduce total parking spaces may be allowed with an approved parking study submitted by a registered professional engineer, architect or landscape architect.
- c. Conditions Required for Joint Use.
 - i. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within one thousand feet of such parking facilities.
 - ii. The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - iii. A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the county attorney, shall be filed and recorded with the county clerk and recorder.

4. Off-Site Parking. Any off-site parking which is used to meet the requirements of this title shall be reviewed by the planning director for compliance with this title and shall be subject to the conditions listed below.

- a. Off-site parking shall be developed and maintained in compliance with all requirements and standards of these regulations;
- b. Reasonable access from off-site parking facilities to the use being served shall be provided;
- c. The site used for meeting the off-site parking requirements of these regulations shall be under the same ownership as the principal use being served, under public ownership, or shall have guaranteed permanent use by virtue of a perpetual lease filed with the county clerk and recorder;
- d. Off-site parking for single-family and two-family dwellings shall not be permitted;
- e. Off-site parking for multiple-family dwellings shall not be located more than one hundred feet from any commonly used entrance of the principal use served;
- f. Off-site parking for nonresidential uses shall not be located more than four hundred feet from the commonly used entrance of the principal use and shall not be located in residential districts;

- g. Any use which depends upon off-site parking to meet the requirements of these regulations shall maintain ownership or provide evidence of a long-term irrevocable lease agreement, running in perpetuity with the existence of the designated use, for parking utilization of the off-site location.
- 5. Improvement Schedule. All parking area improvements to include surfacing, drainage, walkways, lighting, landscaping, screening, traffic control, etc. shall be installed according to the provisions of Section 28.
- 6. Stacking of Off-Street Parking Spaces. Required parking spaces shall be located so as to preclude stacking of off-street parking spaces, with the exception of single-family dwellings and individual townhouse units, and duplexes with physically separated individual driveways.

19.05 No Parking in Required Front or Side Yards. Required parking spaces shall not be located in any required front or side yard, except that detached single-family dwellings and townhouses, and duplexes with physically separated individual driveways, may have one space located within a driveway area in the required front yard.

19.06 Exceptions to These Parking Requirements. Because some situations (i.e., existing lots which have no landscaping, irregular lots, lots with topographic difficulties, etc.) would benefit from an alternative to the required maximum parking areas; because the community's appearance could benefit from additional landscaping, streetscaping and sculptural elements; the following alternatives may be permitted: These alternatives may be proposed by the developer for review by the staff. Such proposals may be approved based on a determination that such alternatives meet the following requirements and will not create a congested on-street parking situation in the vicinity of the proposal.

- 1. Landscaping in Lieu of Parking. Property owners have the option of requesting the deletion of up to five required spaces or ten percent of the required parking spaces, whichever is less, if three hundred fifty square feet of landscaping, trees, streetscaping or sculptural elements (not signage) is installed on the property for each space so deleted. This shall not decrease the amount of landscaping that would have been required with full parking, but shall be in addition to such landscaping. This option shall be approved by the staff. These improvements must be placed in the public right-of-way or yards directly facing the right-of-way.

Section 20: Manufactured Homes on Individual Lots

20.01 Intent. It is the intent of this section to allow manufactured homes, as defined herein, in specified zoning districts in which similar one-family dwellings constructed on the site are permitted subject to requirements and procedures set forth in these regulations. It is the intent of this section to permit only those manufactured homes certified as meeting the National Manufactured Housing Construction and Safety Standards of the U.S. Department of Housing and Urban Development.

20.02 Application and Submittal. One copy of the application for the proposed manufactured home on the individual building lot shall be submitted to the planning department in conjunction with the application for a Land Use Permit. The application shall include all information as deemed necessary by the planning department to make determinations as to conformity with subsection 20.03 below.

20.03 Construction Standards. The following construction standards are required for any manufactured home proposed on an individual lot:

1. The roof shall have sloping lines with eaves, such as gable, mansard and shed style roofs or shall be compatible with conventionally built homes in the surrounding areas. The pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be ten feet (10').
2. The roofing material shall be shake, tile, composition shingle, or other materials commonly found on conventionally built homes in the surrounding areas.
3. The exterior covering material shall be similar or closely compatible to that found on conventionally built residential structures in the surrounding area.
4. The exterior covering material shall extend to the ground. If a solid concrete or masonry perimeter foundation is used, the exterior covering material shall extend below the top of the foundation.
5. The exterior covering and roofing materials of the garage(s), carport(s) and accessory buildings shall be compatible with the materials on the manufactured home.
6. The finished floor shall be a maximum of twenty-four inches (24") above the exterior finished grade of the lot, or similar to the conventionally built homes in the surrounding area.
7. The manufactured home shall be so located on the lot that the portion nearest the principal street frontage is at least thirty-four feet (34') in total length when measured as a line parallel to the street. Such dimension shall be measured from outer extremities, including eaves, and shall include any additions to the main body of the manufactured home, such as living or recreation rooms, garages, carports,

utility rooms, and the like, the front portions of which are within ten feet (10') of the front of the main body of the manufactured homes.

8. Manufactured homes on permanent foundations shall meet all property development standards for the zone in which they shall be located. These standards include, but are not limited to: lot area and dimension; area per dwelling unit; front, rear and side yard setbacks; building height, lot coverage, accessory buildings; and off-street parking.
9. Manufactured homes shall be approved for location on individual building lots only if they have been certified as meeting the National Manufactured Housing Construction and Safety Standards of the U.S. Department of Housing and Urban Development.

Section 21: Telecommunications

21.01 Intent. The intent of this section is to regulate the placement, construction, and modification of wireless telecommunications service facilities; by

1. Determining the appropriate location for placement of towers and antennas to serve local residents and businesses;
2. Promoting co-location and use of alternative tower structures to minimize the need to construct new towers;
3. Minimizing the adverse visual impacts of towers and antennas through careful siting, design, landscape screening, and innovative camouflaging screening; and
4. Ensuring against potential health and safety hazards to citizens and prevent damage to adjacent properties.

21.02 Application. All uses listed in this section shall be subject to the specific standards described for each use, in addition to all other applicable standards which may apply, and limited to those districts specified. The provisions of this section apply to Large Scale Broadcast Facilities and Small Scale Broadcast Facilities as defined in ARTICLE VI. The provisions of this section do not apply to facilities which meet the definition of Essential Services (Type I) as defined in ARTICLE VI, nor to private antennae which are limited to reception only.

21.03 Review Procedures for Large Scale Broadcast Facilities.

1. A Large Scale Broadcast Facility shall be considered as a principal use in the M-I and PLI districts, provided the facility meets all applicable standards, and shall be reviewed under the terms of Section 16 and this section. A Large Scale Broadcast Facility which establishes a second principal use on a proposed site will require site plan review and approval. A Large Scale Broadcast Facility proposed to be mounted on an existing structure shall be reviewed as a Land Use Permit under the terms of Section 28 and this section. A Large Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for Large Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, shall also be reviewed as a Land Use Permit, as described in Section 28.
2. A Large Scale Broadcast Facility shall be considered as a Conditional Use in the N-S district and subject to Conditional Use Permit review as described in Section 30. The commission, in approving such a conditional use permit, shall find that the service provided by the proposed facility cannot be adequately received from other properly zoned locations. A Large Scale Broadcast Facility may not exceed the established maximum building height in the N-S district. A Large Scale Broadcast

Facility shall not be permitted in the AS, RS, R-LD, R-MD, R-MH and R-O, districts.

21.04 Review Procedures for Small Scale Broadcast Facilities.

1. A Small Scale Broadcast Facility shall be considered as a principal use in the M-I, and PLI districts, provided the facility meets all applicable standards, and shall be reviewed as a Land Use Permit under the terms of Section 28 and this section. A Small Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for either Large or Small Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, shall also be reviewed as a Land Use Permit, as described in Section 28.
2. A Small Scale Broadcast Facility shall be considered as a principal use in the N-S district, provided the proposed installation does not exceed the established maximum building height for the district proposed for such use. A Small Scale Broadcast Facility shall be reviewed as a Land Use Permit under the terms of Section 28 and this section. A Small Scale Broadcast Facility proposed to be located on an existing structure which was previously reviewed for either Large or Small Scale Broadcast Facility use, where such proposed facility is in accordance with the original project approval, shall also be reviewed as a Land Use Permit, as described in Section 28. A Small Scale Broadcast Facility proposed to exceed the established maximum building height may be permitted upon a determination that the service provided by the proposed facility cannot be adequately received from other properly zoned locations.
3. A Small Scale Broadcast Facility shall be considered as a conditional use in the AS, RS, R-LD, R-MD, R-MH, and R-O districts and subject to Conditional Use Permit review as described in Section 30. All Small Scale Broadcast Facilities in these districts may not exceed the established maximum building height for the district proposed for such use. The commission, in approving such a conditional use permit, shall find that the service provided by the proposed facility cannot be adequately received from other properly zoned locations.
4. A broadcast facility of less than 500 watts effective radiated power proposed for the sole and exclusive, on-site use of a business, which business has otherwise been approved under Section 16 or 30, and found to be in compliance with the maximum building height limitations of the zoning district, with all setback and other zoning requirements, and which has four or less square feet of total antenna surface area, may be permitted as an accessory use in any non-residential district.

21.05 Submittal Requirements for Large Scale and Small Scale Broadcast Facilities. The following information and data shall be submitted for broadcast facility plan review.

1. Site and landscape plans drawn to scale.
2. A report including a description of the tower with technical reasons for its design.

3. Documentation establishing the structural integrity for the tower's proposed used.
4. The general capacity of the tower, and information necessary to assure that ANSI standards are met.
5. A statement of intent on whether excess space will be leased.
6. Proof of ownership of the proposed site or authorization to utilize it.
7. Copies of any easements necessary.
8. An analysis of the area containing existing topographical contours; and
9. A visual study depicting "where within a three (3) mile radius any portion of the proposed tower could be seen."
10. An inventory of existing sites utilized by the applicant shall be provided. The inventory shall note the feasibility of accommodating other users.

21.06 Standards.

1. **Safety.** The following information shall be provided with all applications to establish or modify a Small Scale Broadcast Facility or Large Scale Broadcast Facility.
 - a. A statement of whether the proposed facility is exempt or non-exempt from environmental review under the Rules of the FCC. If the facility is claimed to be exempt, a detailed and specific citation to the Rules of the FCC indicating the section which details the relevant exemption provisions shall be included. If the facility is not exempt from environmental review a copy of the environmental review and the approval from the FCC for the site shall be provided to Gallatin County prior to the issuance of a Land Use Permit.
 - b. If the facility is claimed to be exempt from environmental review a statement shall be provided, under oath and notarized, that the proposed or existing facility does or will comply with FCC radio frequency emission guidelines for both general population/uncontrolled exposures and occupational/controlled exposures as defined in the FCC rules. The provision of false information shall result in the immediate revocation of permits or approvals granted upon the basis of the false information and the cessation of operation of the offending facilities.
 - c. A Land Use Permit shall be obtained prior to the installation of any telecommunications facility. The structural design for all antenna support structures 10 feet or greater in height or which have attached more than four square feet of total antenna area shall be certified by a professional structural engineer licensed to practice in the State of Montana.
 - d. All Small Scale Broadcast Facility and Large Scale Broadcast Facility shall meet or exceed current standards and regulations of the FCC, FAA, and any other agency with the authority to regulate towers and antennas. If such standards are changed the owner shall modify the installation to comply with the new standards within 6 months of the effective date of the new standards or regulations unless a different implementation schedule is required by the issuing agency.

- e. Towers with a base located at grade shall be enclosed within a secure fence not less than six feet in height or the tower itself shall be equipped with an appropriate anti-climbing device.

2. Setbacks/Aesthetics.

- a. New towers greater than forty feet in height shall accommodate at least three service providers with accompanying area for equipment and access. Where multiple providers will be utilizing the same area and/or support structure, consideration should be given to the provision of a single building or other similar integration of equipment housing. A new tower may meet this requirement by correctly sizing the foundation and other structural elements to allow the future addition of height to the structure to accommodate additional users rather than immediately constructing the entire tower. This requirement will be able to be waived by the governing body upon a showing of fact to overcome the presumption that multiple transmitters are desirable on a tower.
- b. An applicant for a new tower in excess of forty feet (40') in height shall demonstrate that there are no available openings on existing facilities which are technically and financially feasible and that a new structure is necessary. A site shall be deemed financially feasible if the cost is equal to or less than the cost of constructing a new tower.
- c. All installations shall be as visually unobtrusive as is feasible. FAA and FCC regulations may require visual marking and lighting and may not be overridden by local regulations in this area. Unless otherwise required by the FAA or FCC towers shall be of a galvanized finish or be painted in neutral colors. Facilities and equipment mounted on existing structures shall be visually incorporated into the structure or background by the use of architectural elements, color, screening, or other methods. Installations located within the Entryway Corridor shall be reviewed against the criteria of Section 17 as applicable.
- d. No lighting or signage except a single four (4) square foot business identification sign is allowed unless such lighting or signage is required by the FAA, FCC, or Gallatin County.
- e. Special setbacks for towers shall be provided and/or a design for internal structural collapse to avoid damage or injury to adjoining property or users shall be provided.
 - i. Residential district setbacks for a Large Scale Broadcast Facility shall be 100% of tower height which may be reduced to no less than 50% upon the provision and approval of an engineered design, stamped by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller collapse area.
 - ii. A Large Scale Broadcast Facility in non-residential zones shall provide a minimum setback from the property lines of 75% of tower height which may be reduced to no less than 20% of tower height upon the provision and approval of an engineered design, stamped

by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller collapse area. All installations shall maintain the minimum zoning district setbacks including special setbacks for entryway corridors. An application for an Large Scale Broadcast Facility located less than 100% of the tower height from the property line shall include a narrative addressing the issue of ice fall.

- f. All structures shall be constructed in conformance with the most recent version of either the standards of the Uniform Building Code or the Electronics Industries Association and the Telecommunications Industry Association, commonly cited as EIA/TIA 222-E standards. The most rigorous standard shall govern.
- g. Visual screening shall be provided in all residential areas and where a facility is located within a non-residential area which is visible, at grade, from a residential area. Screening shall provide an opaque screen within 18 months of establishment and be a minimum of four feet in height. The screening may be of landscape materials or a fence which otherwise complies with these Regulations. The site shall comply with the landscaping provisions contained in Section 18.
- h. Materials on the exterior of equipment shelters used in residential areas shall be of materials commonly used in the neighborhood. The architectural design of the shelter shall be compatible with surrounding residential structures. The intent of the requirements of this paragraph may be met by providing fencing or other visual screening compatible with the neighborhood, in compliance with all other sections of these Regulations, which will obscure the entire equipment shelter. The screening shall be in place prior to the commencement of operations of the facility.
- i. All Small Scale Broadcast Facilities established in a entryway corridor overlay district shall be installed in such a way as to maintain the historic or architectural character of the host site. All sites shall maintain the least possible visual obtrusiveness.
- j. Applicants for a Small Scale Broadcast Facility or a Large Scale Broadcast Facility in residential areas shall provide an accurate photo simulation of the site with the proposed facility in place. The simulation shall be to scale, and include all feasible antennae depicted on the tower. Landscaping which is not shown or proposed on the accompanying site plan shall not be included in the simulation unless it exists on adjoining properties.

3. Administrative Provisions.

- a. The public land and agencies exemption from full compliance with zoning in Section 76-2-402, Montana Code Annotated does not apply to private entities utilizing publicly owned lands.
- b. All facilities shall be removed within 9 months of the cessation of operations. If a facility is not removed within 9 months the county shall remove the facility at the facility or land owners expense. Where multiple

users share a facility the non-operational antennae shall be removed but any common equipment may be retained until all users have terminated the utilization of the site.

- c. No facilities may be established in residential areas which require employees to be present on a routine basis, with the exception of periodic maintenance activities, unless the zone allows offices as a permitted or conditional use and appropriate review has been completed.
- d. Any modifications to existing broadcast sites may only occur in compliance with the review procedures required in this section.
- e. Denial of an application shall be made only after the review body has determined that specific criteria of this title can not be met. Said determination shall be made in writing and shall include the reasons for the denial and the evidence which supports those reasons. Public opposition alone is not sufficient to deny the application.

Section 22: Signs

22.01 Intent. It is the intent of this section to promote the health, safety and welfare of the residents and visitors of the Gallatin County/Bozeman Area Zoning District by regulating and controlling the size, location, type, quality of materials, height, maintenance and construction of all signs and sign structures not located within a building for the following reasons:

1. To preserve the area's natural scenic beauty;
2. To contribute to inviting entrances into Gallatin County/Bozeman Area Zoning District by eliminating clutter associated, in part, with the unrestricted proliferation of signs, lights, and stringed devices;
3. To encourage area beautification through creative, interrelated design of signage, landscaping, buildings, access and parking that enhances the community's built and natural environment;
4. To give all businesses an equal opportunity to have a sign that will help people find the services they need;
5. To ensure that pedestrians and motorists are protected from damage or injury caused or partly attributable to the distractions and obstructions which are caused by improperly situated signs.

22.02 Definitions. Words and phrases used in this section shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in these Regulations shall be given the meanings set forth herein. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this section.

1. Anchor tenant. A tenant within a retail shopping center or complex which utilizes 20,000 or more square feet of ground floor area in one or more structures.
2. Area of signs. The area of a sign shall be computed by enclosing the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure, or character together with any other material or color forming an integral part of the display or used to differentiate such sign from a building on which it is placed. The area of a sign having no such perimeter shall be computed by enclosing the entire area within parallelograms, triangles, or circles in a size sufficient to cover the entire area of the sign copy and computing the size of such area. In the case of a two-sided sign, the area shall be computed as including only the maximum single display surface which is visible from any ground position at one time. If the angle between the two sign faces is greater than forty-five (45) degrees, the sign area will be the sum of the areas of the two (2) faces. The supports or uprights on which any sign is supported should not be included in determining the sign area unless such supports or uprights are designed in such a manner as to form an integral background of the sign. In the case of any spherical, conical, or cylindrical sign one half of the total surface area shall be computed as the area of the sign.

3. Awning. A roof-like structure, which is generally composed of a skeletal frame, covered in a fabric or other skin-type material, and typically open on the bottom side, which projects beyond a building or extending along and projecting beyond the wall of the building. For the purposes of this regulation a sign on an awning shall be considered to be a wall sign.
4. Banner. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
5. Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
6. Building frontage. The maximum dimension of the building front measured on a straight line parallel to the street.
7. Canopy. Any open, permanent roof-like accessory structure which is not attached or part of a principal building. For the purposes of this section, a sign located on a canopy shall be considered a wall sign.
8. Commercial message. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.
9. Directional sign. An on-premise sign which is intended to convey information regarding the location of specific features of the site or to convey on-premise regulations including traffic and circulation regulations.
10. Freestanding sign. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
11. Height of low profile sign. The vertical distance between the finished grade and the highest component of the sign.
12. Height of pole style sign. The vertical distance between the elevation of the adjacent street curb, or edge of pavement if no curb exists, to the highest attached component of the sign. In the event that the finished grade of the sign location is higher, or lower, than the adjacent street curb or edge of pavement, the height shall be determined as the vertical distance from the median elevation between the adjacent street curb or edge of pavement and the lowest finished grade at the base of the sign to the highest attached component of the sign.
13. Incidental sign. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message which is designed with the intent to be legible from a position off the zone lot on which the sign is located shall be considered incidental.
14. Interchange zone. Districts created for the purpose of allowing larger and/or additional signage for the areas which are located within the Entryway Overlay District and within 1,300 feet of the I-90 right-of-way.
15. Low-profile sign. A freestanding sign composed of a solid structure between finished grade and the top of the sign. Also referred to as a monument sign.

16. Noncommercial speech. Any sign wording, logo, or other representation that does not, directly or indirectly, name, advertise, or call attention to a business, product, service, or other commercial activity.
17. Nonconforming sign. A sign that does not conform to the provisions of this section.
18. Off-premise sign. A sign which advertises or directs attention to products or activities that are not provided on the parcel upon which the sign is located.
19. Parapet. That part of the wall which extends above the roof. For the purposes of this section, the top of the parapet shall be considered to be the roofline.
20. Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
21. Pole sign. A freestanding sign which is supported by a column(s) or other structural member(s) that is permanently attached to the ground or a ground-mounted structure and provides a minimum of eight feet (8') of visible, vertical clearance between the sign and finished grade.
22. Portable sign. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
23. Projecting sign. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches (6") beyond the surface of such building or wall and is perpendicular to such building or wall.
24. Revolving sign. Any sign which all, or a portion of, may rotate either on an intermittent or constant basis.
25. Roof sign. Any sign erected and constructed on and over the roof of a building, supported by the roof structure, and extending vertically above any portion of the roof. Roof signs shall not include signs located on a mansard roof if the sign is mounted vertically and integrated with the roof. For the purpose of this section, architecturally integrated mansard signs and other architecturally integrated signs located below the principal roof line shall be classified as wall signs.
26. Setback. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.
27. Sign. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
28. Special event sign. A temporary sign which advertises special civic events and activities such as street fairs, community festivals, parades, farmers markets and charity benefits.
29. Street. A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct access to property, including, but not limited to, avenues, boulevards, courts, drives, highways, lanes, places, roads, or other thoroughfares, but not including alleys or driveways.

30. Temporary sign. Any sign that is used only temporarily and is not permanently mounted.
31. Wall sign. Any sign painted on, attached to, or erected against the wall of a building, structure, canopy or awning with the exposed face of the sign parallel to the plane of said wall or structure. The sign must be attached in a manner so that it does not extend beyond six inches of the wall.
32. Window sign. Any sign painted, attached, glued, or otherwise affixed to a window for the purpose of being visible from the exterior of the building.
33. Zone lot. A parcel of land or contiguous parcels of land held in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage and use.

22.03 Sign Permit Requirements. If a sign requiring a permit under the provision of this section is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign. Furthermore, the property owner shall maintain in force, at all times, a permit for such sign. No permit of any kind shall be issued for an existing sign or proposed sign unless such sign is consistent with the requirements of this section.

22.04 Prohibited Signs. All signs not expressly permitted under this section, or exempt from regulation, are prohibited in the jurisdiction. Such signs include, but are not limited to:

1. Portable signs.
2. Roof signs.
3. Revolving signs.
4. Beacons.
5. Flashing signs.
6. Pennants.
7. Stringed flags.
8. Inflatable signs and tethered balloons (except as permitted per section 22.05).
9. Signs located in public rights-of-way (except for those permitted in subsection 22.06(3)).

22.05 Permitted Temporary and Special Event Signs. Temporary and special event signs, such as banners, tethered balloons and inflatable signs, shall be allowed only as follows:

1. Special event signs are permitted in the zones described in sections 22.07(1) [Commercial, Manufacturing, and Public Land Zones] and 22.07(2) [Business and Office Zones].
2. Such signs shall be displayed for a consecutive period not to exceed fifteen (15) days, for a maximum of thirty (30) days per year with the exception of grand opening banners which may be displayed for a period not to exceed sixty (60) days. Only one grand opening banner shall be permitted for the life of a business. A subsequent grand opening banner may be permitted when business ownership, has transferred to another owner.

3. Such banners shall be consistent with the standards of this section as to location, height, and type.
4. Applicants for such banners must apply for, and have approved, a temporary sign permit.

22.06 Signs Exempt From Permit Requirements. The following signs shall be exempt from regulation under this section:

1. Residential Zones (A-S, R-S, R-LD, R-MD, R-MH). Temporary non-illuminated, real estate sale, and noncommercial speech signs that do not exceed nine (9) square feet in total area and, if freestanding, five feet (5') in height. No more than one such sign per street frontage.
2. Commercial and Manufacturing Zones, (R-O, N-S, M-I, PLI).
 - a. Window signs painted on the window or affixed to the interior of a window provided that such signs do not occupy more than twenty-five percent (25%) of the area of the window in which it is displayed. If it exceeds twenty-five percent of the area of the window, it will be classified as a wall sign.
 - b. Signs within a structure or building or other enclosed area of property when such signs are not intended to be viewed from outside the structure or property.
 - c. Four on-premises directional signs not exceeding four square feet in area which shall not contain any commercial messages.
3. All Zones.
 - a. Government and Public Utility Signs. Directional, warning, street, building identification, traffic control, informational or temporary special event signs that are erected, installed, or placed by or on behalf of any federal, state, county, or city government. Public utility signs showing locations of underground facilities or public telephones, and safety signs on construction sites are included within this exemption.
 - b. Incidental Signs. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No sign with a commercial message which is designed with the intent to be legible from a position off the zone lot on which the sign is located shall be considered incidental.

22.07 Signs Permitted Upon the Issuance of a Sign Permit. The following on-premise signs are permitted in the indicated zones subject to a sign permit:

1. Manufacturing, Industrial and Public Land Zones (M-I, PLI). The maximum allowable total signage listed herein shall not exceed two hundred and fifty (250)

square feet per lot. A comprehensive sign plan is required for all commercial centers consisting of two (2) or more tenant spaces on a lot and shall be designed in accordance with section 22.08.

- a. Freestanding Signs. One freestanding sign is permitted per zoned lot. The maximum area for a freestanding sign shall be thirty-two (32) square feet. A low profile freestanding sign shall be set back a minimum of five feet (5') with a maximum height of five feet (5'). A pole-style freestanding sign shall be set back a minimum of fifteen feet (15') with a maximum height of thirteen feet (13'). The pole-style sign will maintain at least an eight feet (8') minimum vertical clearance from the ground.
 - b. Wall Signs. Wall signs are not to exceed a total signage allowance of one and one half (1.5) square feet per linear foot of building frontage minus any area devoted to freestanding or projecting signs. Canopy, window, and awning signs shall be classified as wall signs. Wall signs shall not project above the top of a wall or parapet. Lots fronting on two or more streets shall be permitted an additional thirty-five percent (35%) of the already permitted wall sign area for each subsequent building frontage.
 - c. Projecting Signs. One projecting sign per tenant. Projecting signs shall not exceed eight (8) square feet in area nor extend more than four feet (4') from the building. Projecting signs shall provide a minimum sidewalk clearance of eight feet (8').
2. Business and Office Zones (N-S, R-O). The maximum allowable total signage for a lot shall not exceed eighty (80) square feet in a N-S district, and thirty-two (32) square feet in a R-O district. A comprehensive sign plan is required for all commercial centers consisting of two (2) or more tenant spaces on a lot. Such plans shall be designed in accordance with Section 22.08.
- a. Low Profile Freestanding Signs. One low profile sign not to exceed thirty-two (32) square feet in area in the N-S district, and twelve (12) square feet in area in the R-O district. In both the N-S and the R-O districts, the low profile sign shall have a minimum setback of five feet (5') and a maximum height of five feet (5'). Pole-style freestanding signs are not permitted in the N-S and R-O zones.
 - b. Wall Signs. Wall signs in the N-S district are not to exceed a total signage allowance of one (1) square foot per linear foot of building frontage minus any area devoted to freestanding or projecting signs. Wall signs in the R-O district are not to exceed a total signage allowance of half (.5) of a square foot per linear foot of building frontage minus any area devoted to freestanding and/or projecting signs. Canopy, window, and awning signs shall be classified as wall signs. Wall signs shall not project above the top of a wall or parapet. Lots fronting on two or more streets shall be permitted an additional thirty-five percent (35%) of the already permitted wall sign area for each subsequent building frontage.

- c. Projecting Signs. One projecting sign per tenant. Projecting signs shall not exceed eight (8) square feet in area nor extend more than four feet (4') from the building. Projecting signs shall provide a minimum sidewalk clearance of eight feet (8').
- 3. Residential and Agricultural Zones (A-S, R-S, R-LD, R-MD, R-MH).
 - a. Residential Building Identification Signs. For properties used for multi-family residential buildings, one residential identification wall sign per street frontage. Each sign shall not exceed eight (8) square feet in area.
 - b. Signs Appurtenant To Residential Principal and Conditional Uses and Home Occupations.
 - i. Principal residential uses and Home Occupations shall be permitted commercial message signage not to exceed four (4) square feet in area and shall not be located in any required setback area. In addition, Home Occupations shall be permitted one (1) square foot signs on a mailbox or lamp post or one and one half (1 1/2) square feet of freestanding signage located a minimum of five feet (5') from the property line.
 - ii. Principal residential uses shall be permitted noncommercial speech signs which do not exceed thirty (32) square feet in area nor five feet in height (5'). Such sign(s) must be setback at least fifteen feet (15') from the property line.
 - iii. Conditional nonresidential type uses, such as churches, veterinary uses, golf courses, day care centers and schools shall be permitted signage as if the underlying zoning were N-S. Conditional residential type uses such as bed and breakfast homes, and fraternity and sorority houses, shall be permitted signage as if the underlying zoning were R-O. Such signs may only be illuminated during the hours of operation.
 - c. Planned Unit Developments. Commercial establishments within planned unit developments where the underlying zoning is residential or agricultural shall be permitted signage as if the lot were in a N-S zone.
- 4. Special Zones. The guidelines for the underlying zoning districts apply unless otherwise addressed below.
 - a. Interchange Zone. Each lot shall be permitted one freestanding sign.
 - i. Low Profile Signs. One low profile sign per zoned lot. The maximum area for a low profile sign shall be forty-eight (48) square feet. The sign shall be setback a minimum of five feet (5') with a maximum height of eight feet (8').
 - ii. Pole-Style Signs. A pole-style freestanding sign shall be set back a minimum of fifteen feet (15') and will maintain at least an eight feet (8') minimum vertical clearance. Pole-style signs shall not exceed a total area of forty-eight (48) square feet or sixteen feet (16') in

height, provided however, that for every two feet (2') said sign is set back from fifteen (15') beyond the street right-of-way, the height measured at grade may be increased one foot (1'), not to exceed a total of thirty-two feet (32'), and the area may be increased by two and one half (2.5) square feet for every two feet (2') that said sign is set back fifteen feet (15') beyond the street right-of-way up to a maximum of one hundred and twenty (120) square feet.

22.08 Comprehensive Sign Plan. A comprehensive sign plan shall be submitted for all commercial, office, industrial, and civic uses consisting of two or more tenant or occupant spaces on a lot or two or more lots subject to a common development permit or plan. A comprehensive sign plan shall not be approved unless it is consistent with this section, the underlying zoning regulations applicable to the property and any discretionary development permit or plan for the property. The plan should include the size and location of buildings and the size and location of existing and proposed signs. The purpose of the plan is to coordinate graphics and signs with building design. The coordination shall be achieved by:

1. Using the same type of cabinet supports or method of mounting for signs of the same type; using the same type of construction for components, such as sign copy, cabinet and supports; using other types of integrating techniques, such as common color elements, determined appropriate by the planning director.
2. Using the same form of illumination for all signs, or by using varied forms of illuminations determined compatible by the planning director.

22.09 Multi-tenant Complexes with less than 100,000 Square Feet of Ground Floor Area. The guidelines for the underlying zoning districts apply unless otherwise addressed below:

1. The maximum permitted wall sign area allowed for each tenant space shall be the percentage of the total floor area on the zoned lot that the tenant occupies multiplied by the wall area allowed by subsection 22.07(1)b. or 22.07(2)b. If the lot has more than one building frontage, the individual tenant space may derive sign area only from the frontage(s) which the space faces. Lots under this section shall be allowed a low profile sign that identifies the complex, which otherwise conforms to this section, in addition to the sign area already permitted under subsection 22.07(1)b. or 22.07(2)b.

22.10 Multi-tenant Complexes with more than 100,000 Square Feet of Ground Floor Area. The guidelines for the underlying zoning districts apply unless otherwise addressed below:

1. Freestanding Signs.
 - a. Pole-Style Signs. One pole-style sign per street frontage not to exceed forty-eight (48) square feet in area or sixteen feet (16') in height. The sign area computed for a pole-style sign shall not be subtracted from the maximum allowable wall signage permitted for the entire complex.

- b. **Low-Profile Signs.** One low-profile sign shall be permitted at each secondary entrance of the complex, provided each sign shall not exceed thirty-two (32) square feet in area, not five feet (5') in height, and must be setback a minimum of five feet (5') from the property lines. All low-profile signs shall only identify the complex and must display the street number address in figures which are at least six inches (6") high. Low profile signs complying with these regulations will not be factored when calculating the maximum permitted wall sign area.
- 2. **Wall Signs.** Each tenant shall be permitted wall signage square footage calculated from one and one-half times the linear store frontage.

22.11 Indoor shopping mall complexes with more than 100,000 square feet of ground floor area. The guidelines for the underlying zoning districts apply unless otherwise addressed below:

- 1. **Freestanding Signs.**
 - a. **Pole-Style Signs.** One pole-style sign per street frontage not to exceed forty-eight (48) square feet in area or sixteen feet (16') in height. The sign area computed for a pole-style sign shall not be subtracted from the maximum allowable wall signage permitted for the entire complex.
 - b. **Low-Profile Signs.** One low-profile sign shall be permitted at each secondary entrance of the complex, provided each sign shall not exceed thirty-two (32) square feet in area, nor five feet (5') in height, and must be setback a minimum of five feet from the property lines. All low-profile signs shall only identify the complex and must display the street number address in figures which are at least six inches high. Low profile signs complying with these regulations will not be factored when calculating the maximum permitted wall sign area.
- 2. **Wall Signs.** Each anchor tenant shall be permitted three hundred square feet of wall signage. Each tenant with an exclusive outdoor customer entrance shall be permitted wall signage square footage calculated from five percent of the ground floor area.

22.12 Illumination. Illumination, if any, shall be provided by artificial light which is constant in intensity and color. Internally illuminated "can signs" are acceptable provided background and copy are coordinated to avoid excessive light output. Neon and other gas type transformers shall be limited to sixty milliamperes and fluorescent transformers shall be limited to eight hundred (800) milliamperes to soften light output. Additionally, neon and other gas type signs with exposed tubing shall be equipped with dimmers.

22.13 Street Vision Triangles. Signs shall not be placed in sight vision triangles as defined in these Regulations.

22.14 Required Address Signs. Street numbers shall be required for all residential, commercial, industrial, and civic uses in all zones, consistent with the requirements of the fire district. All freestanding signs shall display the address of the lot in six-inch numbers.

22.15 Off-premise Advertising Signs.

1. Off-premise Commercial Advertising Signs, or Billboards, are not permitted within this zoning district, except for official and tourist-oriented directional signs with valid state or federal permits issued in compliance with the Federal Highway Beautification Act.
2. Subdivision Identification Signs. Subdivisions consisting of more than four lots may have one low-profile, freestanding, neighborhood identification sign per development entrance on each road, with a sign permit. Subdivision identification signs may not identify specific commercial firms or uses. The identification sign shall not exceed sixteen (16) square feet in area or five feet (5') in height from the finished grade, and must be set back at least five feet (5') from the property line.

22.16 Signs Erected in Conjunction with Non-profit Activities on Public Property. Signs erected on public property in support of non-profit activities, such as signs advertising sponsors of youth and sports activities, shall be allowed only as follows:

1. The sign(s) shall be permitted only at developed facilities in public parks or other publicly owned lands.
2. The sign(s) may be erected two (2) weeks prior to the commencement of the activity and shall be removed within one (1) week after the cessation of the activity for which the sign(s) were erected.
3. Each individual sign shall be no larger than thirty-two (32) square feet. Freestanding signs must be setback a minimum of fifteen feet (15') from the property line with a maximum height of five feet (5'). Signs attached to walls or scoreboards shall not be subject to the five foot (5') height limitation. However, signs attached to walls or scoreboards shall not exceed the height of the wall or scoreboard to which they are attached. All signs shall be oriented towards spectators attending the activity who are at the facility.
4. The sign(s) shall not:
 - a. advertise alcoholic beverages or tobacco products;
 - b. be individually illuminated; nor
 - c. be placed in sight vision triangles or otherwise impede or obstruct the view of the traveling public.
5. Applicants for such sign(s) must apply for, and have approved, a temporary and special event sign permit detailing the nature of the sign(s) to be erected and the duration the sign(s) will remain in place.

- 22.17 Historic or Culturally Significant Signs.** Signs which have historical or cultural significance but do not conform to the provisions of this section, maybe permitted provided that the commission adopts findings supporting the historical or cultural significance of the sign and issues a sign permit. Such findings shall be adopted by resolution of the commission.
- 22.18 Application.** An application for a sign shall be made on forms provided by the planning department. The application shall contain sufficient information and plans to permit review pursuant to this section, including but not limited to: building elevations; photographs; proposed locations of signs on building elevations; sign design layout showing number, types, and dimensions of all signs, and a site plan showing proposed location of all signs.
- 22.19 Maintenance of Permitted Signs.** All signs shall be continuously maintained in a state of security, safety and repair. If any sign is found not to be so maintained or is in need of repair, it shall be the duty of the owner and the occupant of the premises to repair or remove the sign within ten days after receiving written notice to do so from the zoning enforcement agent. If the sign is not so repaired or removed within such time, the county shall cause the sign to be removed at the expense of the owner of the premises.
- 22.20 Nonconforming signs.**
1. The eventual elimination of existing signs that are not in conformity with the provisions of this section is as important as the regulation of new signs. Except as otherwise provided herein, the owner of any zone lot or other premises on which exists a sign that does not conform with the requirements of this section, and for which there is no prior valid sign permit, shall remove such sign.
 2. All signs which were legally permitted prior to July 27, 1999, are considered legal, permitted signs under this section. Except as provided for in subsection 3 of this section, said sign, if nonconforming with this section, may not be:
 - a. Replaced except with a conforming sign;
 - b. Changed in copy (except for signs specifically designed to be changed in copy);
 - c. Structurally altered to extend its useful life;
 - e. Expanded, moved, or relocated.
 3. No legal, nonconforming sign may be altered or enlarged in any way which increases its nonconformity, but any existing signage, or portions thereof, may be altered by decreasing its nonconformity.

ARTICLE IV ALTERNATIVE DEVELOPMENT OPTIONS

Section 23: Planned Unit Development (PUD)

23.01 Intent.

1. Ensure that future growth and development occurring within the zoning jurisdiction is in accord with the *Gallatin County/Bozeman Area Plan*, its specific elements and its goals and policies.
2. Promote development standard flexibility and innovation in the development of land and the design of development projects.
3. Minimize adverse environmental impacts of development and to protect special features of the geography.
4. Foster the safe, efficient and economic use of land and transportation and other public facilities.
5. Ensure adequate provision of public services such as water, sewer, electricity, open space and parks.
6. Improve the design, quality and character of new development.
7. Protect existing neighborhoods from the harmful encroachment of newer, incompatible developments.
8. Enhance the visual impact of development.

23.02 Application and Uses of a Planned Unit Development.

1. A planned unit development may be applied to any development having one or more principal uses or structures on a single parcel of real property or contiguous parcels of real property. Any use or combination of uses may be allowed in a planned unit development provided such uses are consistent with the underlying zoning district(s) in which it is to be located.
2. All planned unit developments shall consist of a harmonious arrangement of uses, buildings, parking areas, circulation and open spaces. All planned unit developments shall be designed as an integrated unit, in such a manner as to constitute a safe, efficient and convenient development.

3. Lots and structures in a planned unit development need not comply with the specific required design standards (lot size, building height, dwelling unit design, setbacks, etc.) of the underlying zoning classification.
4. The site design shall consider the relationship of the site to the surrounding area. The site perimeter shall be designed to minimize undesirable impacts between the site and surrounding uses.
5. A planned unit development shall not be used independently of the Transfer of Development Right option to exceed the number of dwelling units permitted under the Standard Development option in the A-S and R-S Districts. A planned unit development may be used in conjunction with the Transfer of Development Rights option to establish development design standards necessary to accommodate increased dwelling units achieved under the Transfer of Development Rights option.
6. All planned unit developments shall be reviewed as a conditional use according to the provisions of **Section 29** of this Regulation.

23.03 Special Conditions of a Planned Unit Development. The following special conditions shall apply to any planned unit development.

1. **Single Ownership.** The tract or parcel of land involved shall be either in one ownership or the subject of an application filed jointly by the owners of all the property to be included.
2. **Title Holdings.** The approved final planned unit development shall specify the manner of holding title to areas and facilities of joint use. Normally such areas and facilities shall be retained in title by the developers of the development or deeded to an organization composed of all owners in the development.
3. **Open Space.** Open space areas may either be held/owned perpetually in common by an owners' association, dedicated as a park, permanently preserved through a conservation easement, or a combination thereof. The application shall specify the means of maintaining common open space or of permanently preserving it.
4. **Use of General Development Requirements.** All planned unit developments shall be reviewed for compliance with all general development requirements established in these Regulations. However, general development requirements and standards will be used only as a guide. Approval of a planned unit development shall rest upon a finding by the commission, as proved by the proposal for a planned unit development, that the intent of the general development requirements is achieved.
5. **Establishing Additional Standards.** In addition to, or in lieu of, the general development requirements, the county shall have the right to establish general design

standards, guidelines and policies, for the purpose of implementing and interpreting the provisions of this section.

6. Conformance to Sign Code. All signs proposed in conjunction with a planned unit development shall be reviewed against the provisions of the sign code, **Section 22**. All signage must be approved as part of the planned unit development and shall be designed as an integral element of the overall planned unit development. Approval of signs within a planned unit development shall rest upon a finding by the commission, as proved by the specific proposal, that the intent of the sign code is achieved.

23.04 Planned Unit Development Application Procedure.

1. Pre-application Meeting and Concept Plan Review. A minimum of 30 days prior to the date of application submittal, the applicant shall meet with a member of the Planning Staff to review the appropriate procedures, standards, documentation and any other requirements, including design standards, necessary for the complete processing of a planned unit development application. This step represents an opportunity to identify any major problems that may exist and solutions to those problems before formal application. The following information and data shall be submitted for concept plan review:
 - a. Data regarding-site conditions, land characteristics, available community facilities and utilities and other related general information about adjacent land uses and the uses of land within one-half mile of the subject parcel of land.
 - b. Conceptual (sketch) drawing showing the proposed location of the uses of land, major streets and other significant features on the site and within one-half mile of the site.
2. Application Submittal Requirements. All planned unit development applications shall include the following:
 - a. Completed and signed conditional use permit application form.
 - b. All applicable fees.
 - c. Twenty (20) copies of a site plan showing:
 - i. Property lines and easements, with dimensions and area.
 - ii. Topographic information.
 - iii. Existing vegetation, wildlife habitat, watercourses, wetlands, soil types and floodplains.
 - iv. Existing land uses.
 - v. Location and dimensions of existing and proposed structures, utilities, trails and improvements.
 - vi. Land use designations.
 - vii. General circulation system, including streets and multi-use pathways.

- viii. Number and types of dwelling units and accessory structures.
- ix. Number and types of commercial structures.
- x. Number of off-street parking places.
- xi. General landscape plan.
- xii. Amount and location of open space.
- xiii. Amount, location and use of common space.
- xiv. Proposed treatment of perimeter boundary of the planned unit development.
- d. Standards for principal and accessory structures and uses:
 - i. Minimum lot areas.
 - ii. Minimum lot width.
 - iii. Minimum yard setbacks.
 - iv. Maximum building heights.
 - v. Maximum lot coverage.
- e. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.
- f. Drainage Plan.
- g. Proposed covenants and property owners' association documents which provide for the maintenance of common areas and facilities, and which appropriately limit the use of open space, assign the right to use common property to each lot owner and provide for association assessments.
- h. If a planned unit development is not required to be reviewed as a subdivision, the applicant must submit information on water supply and sewage treatment, public safety (including fire, police, emergency medical response and road access) and historic or archeological resources.
- i. Projected population.
- j. Proposed development schedule and phasing, if applicable.

23.05 Approval Criteria. A planned unit development may be approved by the Commission when the Commission finds:

1. The planned unit development conforms to the goals and policies of the Gallatin County/Bozeman Area Plan.
2. The intent, uses and special conditions of this Section have been met.
3. The planned unit development maximizes the preservation of natural features, including trees, drainage areas, recreation, views, wildlife habitat and riparian areas.
4. The planned unit development serves the public interest.

Section 24: Transfer of Development Rights (TDR)

24.01 Intent and Purpose. The intent of this section is to establish the opportunity and procedures to transfer development rights (dwelling units) from outside the Gallatin County/Bozeman Area Zoning District into the Gallatin County/Bozeman Area Zoning District. The purpose of this section is to implement the Gallatin County Growth Policy by protecting rural agricultural and environmentally sensitive lands while allowing opportunities for landowners to increase density in those areas identified for residential growth in the Gallatin County/Bozeman Area Plan.

24.02 Transfer of Development Rights Defined. Transfer of Development Rights or TDRs is a market based technique that encourages the voluntary transfer of growth from places where a community would like to see less development (*sending areas*) to places where a community would like to see more development (*receiving areas*).

24.03 Applicability. The Transfer of Development Rights option is only available to properties designated as Moderate-Intensity Development on the Gallatin County/Bozeman Area Future Land Use Map and having a zoning district designation of A-S, R-S or R-O.

Development proposals which exceed the permitted number of dwelling units established in the underlying zoning district (baseline density), must comply with the TDR requirements set forth in this section.

24.04 Use of Transferred Development Rights. TDRs cannot be used in any manner not expressly authorized by this section. TDRs may be sold or purchased, or otherwise transferred or received, in accordance with Gallatin County Transfer of Development Rights Administrative Procedures (*which include reference to the growth policy and sub regs*).

24.05 TDR Sending Area. TDR sending areas include all lands under the jurisdiction of the Gallatin County Growth Policy, outside of existing zoning districts and planning areas, unless lands within the zoning district or planning area have been approved as a sending area. TDRs may only be sent or transferred in accordance with Gallatin County Transfer of Development Rights Administrative Procedures and the requirements set forth in this section.

24.06 TDR Receiving Areas. TDR receiving areas include all lands designated as Moderate-Intensity Development on the Gallatin County/Bozeman Area Future Land Use Map and having a zoning district designation of A-S, R-S or R-O.

24.07 TDR Receiving Area Dwelling Unit Densities. Any development proposal which exceeds the permitted number of lots or dwelling units established in the underlying zoning district (baseline density) must comply with the TDR requirements set forth in this section.

1. TDR Densities. One TDR shall be required for residential lots or dwelling units in excess of baseline density according to the following categories:

Density Category	Proposed Development Density
Low	One additional residential lot or dwelling unit in a development where the average density is one unit per acre or less.
Medium	Two additional residential lots or dwelling units in a development where the average density is greater than one unit per acre but not greater than five units per acre.
High	Four additional residential lots or dwelling units in a development where the average density is greater than five units per acre.

Notes:

- a) *Only whole TDRs shall be used to satisfy the density requirements.*
- b) *The TDR requirement for additional lots or units shall apply to all lots or dwelling units within a proposed development based on the density of the overall development, not on the size of the individual lot.*
- c) *For the purpose of determining the density category of a development, the development parcel of site shall exclude all land dedicated for public use.*

2. TDR Examples.

- a. A-S Zone. A 40-acre parcel in the A-S zone, under the Standard Development Option, has a baseline maximum density of five dwelling units or one dwelling unit per eight acres. A developer chooses the TDR Option in order to achieve a development density of two dwelling units per acre. Of the 80 dwelling units that would result from a density of two dwelling units per acre, five would be allowed as baseline density and the other 75 dwelling units would be additional lots. The applicable density category is Medium regardless of lot size. The Medium Density category applies to this project because the average density is two dwelling units per acre. Since only whole TDRs may be transferred, 38 TDRs must be provided to achieve 80 total lots ($2 \times 38 = 76 + 4 = 80$).
- b. R-S Zone. A 20-acre parcel in the R-S zone, under the Standard Development Option, has a baseline maximum density of one dwelling unit per acre, allowing up to 20 one-acre lots within the parcel. A developer chooses the TDR Option in order to achieve a development density of four dwelling units per acre. Of the 80 dwelling units that would result from a density of four dwelling units per acre, 20 would be allowed as baseline density and the other 60 dwelling units would be additional lots. The applicable density category is Medium regardless of whether some lots are larger than an acre. The Medium Density category applies to this project because the average density is four dwelling units per acre. This project would require 30 TDRs to achieve 80 lots ($2 \times 30 = 60 + 20 = 80$).
- c. R-O Zone. All multi-family residential dwelling units that are not located above ground-floor commercial buildings must utilize the TDR Option. A developer chooses the TDR Option in order to build a free-standing multi-family residential building on five acres of land at the maximum density of 12 dwelling units per acre. All 60 dwelling units would be additional units, and would fall into the High Density category in which four additional

dwelling units are allowed per TDR. The developer would be required to provide 15 TDRs for this project ($4 \times 15 = 60$).

24.08 TDR Receiving Area Procedures.

1. In accordance with Gallatin County Transfer of Development Rights Administrative Procedures, TDRs shall become affixed or appurtenant to a receiving parcel upon County approval of a subdivision final plat, or, as provided in these Regulations, become affixed or appurtenant to a receiving parcel upon approval of a planned unit development or conditional use permit.
2. A note on the subdivision final plat or zoning approval document, shall describe all development rights made appurtenant thereto, including serial number of each individual TDR. The TDRs shall become permanently affixed to the receiving parcel upon recordation of the final subdivision plat or zoning approval document.
3. The TDR Manager shall record in the TDR Registry that the TDRs, identified by serial number, have been attached to a receiving parcel and are no longer available for subsequent transfer. A Deed of Attachment, as prescribed by the County, shall be recorded with the Gallatin County Clerk & Recorder indicating the permanent attachment of all TDRs to the receiving parcel. The Deed of Attachment shall include the names of the initial Grantor of each TDR, a legal description of the sending area parcel, the instrument numbers of the TDR deed restrictions that created the TDRs, the serial numbers of the TDRs, and the instrument numbers of all TDR deeds of transfer corresponding to the TDRs.

ARTICLE V ADMINISTRATION

Section 25: Administration

25.01 Zoning Enforcement Agent. The Zoning Enforcement Agent supervises and enforces the provisions of this Regulation pursuant to § 76-2-210, MCA. This consists of, but is not limited to, issuing land use permits, enforcing violations and reviewing applications for conditional use permits, variances, rezoning requests and amendments to the Regulation.

25.02 Advisory Committee. The Commission may create a non-remunerative advisory committee, of up to five members, to make recommendations within the District. Members are freeholders in the District. Advisory Committee members are appointed for two-year staggered terms. Initially, two members are appointed for one-year terms and three members are appointed for two-year terms.

Advisory Committee recommendations are advisory only and are not binding upon the Commission. Advisory Committee meetings are open to the public and noticed accordingly. The Advisory Committee may also notify the Zoning Enforcement Agent of alleged violations within the District.

25.03 Board of Adjustment. The Commission shall appoint a five-member Board of Adjustment (the “BOA”). The role of the BOA is:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Regulation.
2. To hear and decide variances (special exceptions) to the Regulation that will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the regulations will result in an unnecessary hardship, and so that the spirit of the Regulation is observed and substantial justice done.

The BOA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or administrative determination made by the Zoning Enforcement Agent appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all of the powers of the officer from whom the appeal is taken, (§ 76-2-223, MCA). The concurring vote of three members of the BOA shall be necessary to grant a variance, reverse any order, requirement, decision, or determination of any such administrative official (§ 76-2-224, MCA).

25.04 County Planning Board. The 11-member Gallatin County Planning Board consists of resident freeholders serving in an advisory capacity to the Commission. The Planning Board’s role is to make recommendations on the revision of boundaries and the amendment of regulations (§ 76-2-204 and § 76-2-205, MCA).

- 25.05 County Commission.** The Commission reserves the right to, after public notice and hearing, deny, approve or conditionally approve all conditional use applications.
- 25.06 Schedule of Fees.** The Commission sets fees for all applications; including but not limited to land use permits, zone changes, conditional use permits, and variances. The Commission will not take action on an item until fees are paid in full. Fees are non-refundable.
- 25.07 Violations and Penalties.** A violation of this Regulation, any condition imposed through the authority of this Regulation, or any variance granted through this Regulation is a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months or both (§ 76-2-211, MCA).

Section 26: Non-Conforming Lots, Uses and Structures

26.01 Intent. Within the districts established by this Regulation, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before this Regulation was adopted or amended, but which would be prohibited, regulated or restricted under terms of this Regulation or future amendments. It is the intent of this Regulation that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district, unless granted an approved conditional use permit.

Non-conforming uses are declared by this Regulation to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in this Regulation shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction lawfully begun prior to the effective date of adoption or amendment to this Regulation and which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

A property owner may apply to change, alter, enlarge, or expand a non-conforming use or structure pursuant to the conditional use permit process (**Section 30**).

26.02 Non-Conforming Parcels of Record. In any district, structures permitted in said district may be erected on any non-conforming parcel, which was of record on the effective date of this Regulation. All other requirements and restrictions of the district apply to a parcel of record that does not meet parcel area requirements.

A non-conforming parcel of land shall not be divided or changed in any way to reduce the area of the original parcel or increase its non-conformity.

26.03 Non-Conforming Uses of Land. Where at the time of the adoption of this Regulation lawful use of land exist which would not be permitted by this Regulation, the use may be continued so long as it remains otherwise lawful, provided:

1. A legal non-conforming use may only be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Regulation after being granted an approved conditional use permit.
2. A legal non-conforming uses may only be moved in whole or in part to any portion of the lot or parcel not occupied by such use at the effective date of adoption or amendment of this Regulation after being granted an approved conditional use permit.
3. If any such non-conforming use of land, with the exception of seasonal uses, ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations classified by this Regulation for the district in which

the land is located. If a seasonal use ceases for the use of two consecutive seasons, then subsequent use of such land shall conform to this Regulation.

4. Replacement of pre-existing non-conforming septic disposal drainfields shall be permitted provided that a permit is issued by the Gallatin City-County Health Department.
5. Any non-conforming use of land superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.

26.04 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Regulation that could not be built under the terms of this Regulation by reason of restriction on parcel, area, height, yards, its location on the parcel, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A legal non-conforming structure may only be altered or enlarged which increases its non-conformity after being granted an approved conditional use permit. Any structure or portion thereof may be altered to decrease its non-conformity without a conditional use permit.
2. Should such non-conforming structure or non-conforming portion of a structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Commission. Any use or structure which is not substantially the same as the original use or structure must conform with the applicable provisions of this Regulation and applicable federal, state, and local building codes.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations this Regulation.
4. Any legal non-conforming structure altered to conform to the regulations of the district in which it is located shall thereafter remain in conformance with the regulations.

26.05 Non-Conforming Uses of Structures. If a lawful use of a structure, or of structures and premises exist at the effective date of adoption or amendment of this Regulation that would not be allowed in the district under the terms of this Regulation, the lawful use may be continued so long as it remains otherwise lawful provided that:

1. An existing structure devoted to a legal non-conforming use may only be enlarged, extended, constructed, or structurally altered after an approved conditional use permit. A conditional use permit is not required to change the legal non-conforming use to a permitted use.
2. Any non-conforming use may be extended to any other part of a structure designed for such use, but no such use may be extended in any way to occupy land outside the structure without an approved conditional use permit.
3. Any legal non-conforming use superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the non-conforming use may not thereafter be resumed.

4. If a non-conforming use of a structure ceases for a period of more than 12 months, any subsequent use of such structure shall conform to the regulations of the district in which it is located. The period of cessation may be extended for one additional 12-month period with an approved conditional use permit.
5. If a non-conforming use is destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction. Reconstruction of a non-conforming use does not require prior approval of the Commission. Any use which is not substantially the same as the original use must conform with the applicable provision of this Regulation and applicable federal, state, and local building codes.

26.06 Repairs and Maintenance. On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to the extent not to exceed 15 percent of the replacement value of the building in any one year, provided that such work does not increase the cubic content of the building. Nothing in this Regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

26.07 Determination of Status of Non-Conforming Land Uses and Structures. It shall be the responsibility of the Zoning Enforcement Agent to determine the status of non-conforming land uses and structures. If the Zoning Enforcement Agent determines that a use or structure meets the applicable criteria in this Regulation and above, the use or structure shall be deemed an Approved Non-Conforming Land Use or Approved Non-Conforming Structure. The following procedures shall be followed to determine the status of non-conforming land uses and structures.

1. The owner of record of the subject use or structure shall make an application for a determination of the status of a land use or structure.
2. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Zoning Enforcement Agent with a preponderance of supporting information. Such information shall include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses and dated photographs.
3. The Zoning Enforcement Agent shall determine on a case-by-case basis whether a land use or structure is an existing non-conforming use or existing non-conforming structure.
4. Appeals of the Zoning Enforcement Agent's decision may be made in accordance with the provisions of the Administrative Appeals Process.
5. The Zoning Enforcement Agent shall maintain a record of existing non-conforming uses and structures as such information becomes available.

Section 27: Land Use Permits (LUP)

- 27.01 Intent.** A LUP is required prior to construction of most structures within the District. An approved LUP shows conformity with Regulation requirements.
- 27.02 Process.** Landowners shall submit LUP applications (with accompanying fee) to the Planning Department for new structures as defined by this Regulation. The Zoning Enforcement Agent inspects applications to determine if projects comply with provisions of this Regulation.
- 27.03 Structures Requiring LUP Approval.** Structures requiring a LUP prior to construction include: individual single-family and multi-family residential units, each on individual lots; manufactured homes on individual lots; fences exceeding 8 feet in height; signs in compliance with these Regulations; structures associated with temporary uses and home occupations; and accessory structures associated with these uses.
- Prior to the issuance of a LUP, the following structures are subject to site plan review and approval, in accordance with **Section 16** of these Regulations: 12 or more dwelling units in a multiple family structure or structures; 15,000 or more square feet of office space, retail commercial space, service commercial space or industrial space; more than one building on one site for permitted office uses, permitted retail commercial uses, permitted service commercial uses, permitted industrial or permitted combination of uses; 20,000 or more square feet of exterior storage of materials or goods; and parking for more than 40 vehicles.
- 27.04 Exempt Structures.** Qualified accessory structures used exclusively for agricultural purposes are exempt from the LUP requirements and the maximum structure height standards; however all accessory structures must comply with the setback requirements.
- 27.05 Septic Permits.** Landowners shall provide proof of septic or sewer permits with those projects which contemplate new facilities or extension of existing facilities.
- 27.06 Appeals.** Appeals of Zoning Enforcement Agent decisions may be submitted under the Administrative Appeal Process.
- 27.07 Expiration.** LUPs expire if building or work authorized by the permit has not commenced within 12 months from the original permit date and if work authorized by the permit is not completed within 24 months of the original permit issuance date. Landowners must obtain a new permit, to re-commence work.

Section 28: Temporary Use Permits

28.01 General. Uses permitted subject to a special temporary use permit are those temporary uses which are required for the proper function of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. Such uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community. Uses permitted subject to a special temporary use permit may include:

1. Carnivals, circuses, special events of not over seventy-two consecutive hours.
2. Tent revival meetings.
3. Swap meets.
4. Fireworks sales stands.
5. Such other uses as the planning director may deem to be within the intent and purpose of this section.

28.02 Application and Filing Fee. Application for a special temporary use permit may be made by a property owner or his authorized agent. Such application and filing fee shall be filed with the Planning Department. The Zoning Enforcement Agent may require any information deemed necessary to support the approval of a special temporary use permit, including site plans as per **Section 16**.

28.03 Decision. Application for a special temporary use permit shall be reviewed by the Zoning Enforcement Agent who shall approve, conditionally approve, or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the Zoning Enforcement Agent such approval is within the intent and purposes of this section. Any person aggrieved by the decision of the Zoning Enforcement Agent may file an appeal within 15 days of such decision with the board of adjustment pursuant to **Section 33**.

28.04 Conditions. In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. Such conditions may include the following:

1. Regulation of parking.
2. Regulation of parking.
3. Regulation of noise.
4. Regulation of lights.
5. Requirement of financial guarantees for cleanup or removal of structure or equipment.
6. Such other condition deemed necessary to carry out the intent and purpose of this section.

Section 29: Conditional Use Permits

29.01 Intent. A Conditional Use Permit (CUP) is required prior to operation of a use that is not a principal use, but allowed conditionally under this Regulation.

29.02 Requirements. Structures or land within the District may not be used for any purpose unless such use is specifically listed as a principal use or conditional use in this Regulation. The Commission may grant a conditional use for CUP when they find:

1. The use conforms to the objectives of the Gallatin County/Bozeman Area Plan and the purpose and intent of this Regulation.
2. The use will not adversely affect nearby properties or their occupants.
3. The use meets density, and all other regulations of the district in which it is located, unless otherwise provided in this Regulation.
4. A public hearing, after notice has been given, has been held.

29.03 Conditional Approval. The Commission may make the granting of a CUP subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways. The conditions may include but not be limited to the following:

1. Landscaping and its maintenance.
2. Regulation of height.
3. Regulation of lighting.
4. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat and noise.
5. Regulation of placement of uses on the property.
6. Regulation of signs.
7. Regulation of the length of time such use may be permitted.
8. Regulation of the nature and extent of the use.
9. Regulation of time of activities that have off-site impacts.
10. Regulation of vehicular ingress and egress.
11. Requirement for dedication or improvements of rights-of-way.
12. Requirements for restoration of property.
13. Special setbacks, yards, open spaces, buffers, fences and walls.
14. Appropriate fire mitigation.
15. Time schedule of proposed development.
16. Impacts of increased traffic.

29.04 Procedure. All CUP applications shall be submitted to the Planning Department on the required form with the accompanying fee. A public hearing on the matter is scheduled before the Commission and they shall either approve or deny the application based on the facts. The Commission may impose reasonable conditions, as it may deem necessary to mitigate project impacts. Use cannot commence until all conditions have been met.

- 29.05 Notice.** Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.
- 29.06 Issuance of Land Use Permit (LUP).** No LUP shall be issued other than in accordance with the conditions and terms of the conditional use permit. No LUP shall be issued until time for appeal on a conditional use permit has elapsed, or if an appeal has been filed, the appeal has been decided.
- 29.07 Revocation or Modification.** The Commission may revoke or modify a CUP under the following circumstances (under the procedure described above):
1. If circumstances have changed substantially since original approval.
 2. Revocation or modification is necessary to protect the health, safety, or welfare of the area, or is necessary to preserve the integrity of existing use patterns in the area.
 3. The person holding the permit has not complied with the required conditions, or has not materially changed their position by detrimentally relying on said permit.
- 29.08 Expiration/Extensions.** The Commission may issue a CUP for a definite term. Extensions can be obtained through written application made 30 days prior to expiration, with accompanying fee, and notification sent to adjacent property owners. An extension shall be granted if no objection is received. A public hearing will be held if objection is received.

Section 30: Variances

30.01 Intent. It is the intent of this section to provide a process for relief from the occasional inequities created by the physical standards of this Regulation when such standards create a substantially unequal burden on a particular parcel of land in a fashion that would otherwise prevent the reasonable use of the property owing to physical circumstances unique to that parcel. In addition, the intent of this section is to prohibit the granting of variances that would be contrary to the public interest and endanger public health, safety and welfare. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located.

30.02 Criteria. In granting a variance, the Board of Adjustment (BOA) shall issue findings setting forth factual evidence that the variance:

1. Will observe the intent and purpose of this Regulation, including the Gallatin County/Bozeman Area Plan, and do substantial justice.
2. Will not be injurious to the public health, safety, and general welfare.
3. Will not be contrary to and will serve the public interest.
4. Is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of this Regulation:
 - a. Hardship does not include difficulties arising from actions, or otherwise be self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
 - b. Conditions unique to the property may include, but are not limited to, slope, presence of watercourses, after the fact imposition of additional regulations on previously lawful parcels, and governmental actions outside of property owner's control.
5. Is the minimum relief necessary to provide reasonable use of the property.

30.03 Procedure. All variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any variance from this Regulation.

30.04 Notice. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

Section 31: Amendments

- 31.01 Intent.** This Regulation and the boundaries of the Official Zoning Map may be amended or revised whenever the public health, safety and general welfare requires such amendment. Amendments shall follow the procedure prescribed by § 76-2-201 et seq., MCA, and this Regulation.
- 31.02 Procedure.** An amendment may be initiated by submittal of one of the following to the Planning Department:
1. The petition of one or more landowners in the District. The petition shall be filed on the required application and accompanied by the required fee.
 2. Resolution of intention of the Commission.
 3. Resolution of intention of the Planning Board.
- 31.03 Planning Board.** The Planning Board shall make recommendations on the revision of boundaries and the amendment of the Regulation to the Commission.
- 31.04 Hearing.** The Commission shall consider all proposed amendments at a public hearing. The Commission may adopt the amendment in accordance with the procedure prescribed by § 76-2-205, MCA.
- 31.05 Notice.** Notice of the public hearing shall be published in a newspaper of general circulation pursuant to § 76-2-205, MCA.

Section 32: Appeals Process

32.01 Appeals to Board of Adjustment. Pursuant to § 76-2-226, MCA., those aggrieved by Zoning Enforcement Agent's and/or Code Compliance Specialist's decisions may submit written appeals specifying the grounds thereof to the BOA. Appeals must be filed within 30 days of the Zoning Enforcement Agent's and/or Code Compliance Specialist's written decision, and be accompanied by the appropriate fee. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Agent and/or Code Compliance Specialist determines that a stay could cause imminent peril to life or property.

Upon receipt of a written appeal, a public hearing shall be scheduled before the Board of Adjustment for its next available meeting date. Notice of the hearing shall be published once in a newspaper of general circulation at least 15 days prior to the public hearing. The BOA will accept testimony at the hearing from persons interested in the appeal, the appellant and/or their attorney, and the Zoning Enforcement Agent and/or Code Compliance Specialist.

32.02 Board of Adjustment Appeals to District Court. Pursuant to § 76-2-227, MCA., those aggrieved by the BOA's decisions may present to the Eighteenth Judicial Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after filing the BOA's minutes or decision in the Planning Department.

32.03 County Commission Appeals to District Court. Those aggrieved by a decision made by the County Commission may present to the Eighteenth Judicial District Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days upon receipt of the written decision made by the Commission at the public hearing.

Section 33: Complaints and Enforcement

33.01 Intent. It is the duty of the Planning Board, the Commission, its officers, agents and employees to enforce the provisions of this Regulation.

33.02 Complaints. Any person may file a signed, written complaint with the Zoning Enforcement Agent and/or Code Compliance Specialist addressing a violation of this Regulation. The complaint shall fully describe the facts supporting the complaint.

Upon receipt of a written, signed complaint, the Zoning Enforcement Agent and/or Code Compliance Specialist shall record and investigate the complaint, and determine if a violation exists. If the Zoning Enforcement Agent and/or Code Compliance Specialist determine a violation exists, then they shall take the appropriate action to resolve the violation. The name of the person filing the complaint shall remain confidential until the violation is resolved and/or there is a public hearing on the matter.

33.03 Investigations. When investigating an alleged violation, the Zoning Enforcement Agent and/or Code Compliance Specialist shall review the Regulation and other applicable public information regarding the alleged violation. The Zoning Enforcement Agent and/or Code Compliance Specialist may perform an inspection of the alleged violation from a public road or from a neighboring property where permission has been granted for access. The Zoning Enforcement Agent and/or Code Compliance Specialist may also notify the alleged violator, and request access for an inspection. If access is denied, the investigator may seek an administrative warrant. Permission for access is assumed in the event an alleged violator has a pending permit application on file with the Planning Department. The investigator shall document the inspection with written notes and/or photographs as appropriate.

33.04 Administrative Remedies. Pursuant to § 76-2-210, MCA., and in addition to those remedies provided by law, and with reasonable cause, the Zoning Enforcement Agent and/or Code Compliance Specialist may revoke any land use permit, issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of the regulation, and/or require mitigation and/or corrective action, including, but not limited to, dismantling or removal of noncomplying structures, to remedy the violation.

33.05 Administrative Fine. In addition to Section 34.04 above, and upon a recommendation from the Zoning Enforcement Agent and/or Code Compliance Specialist, the County Commission may, after a public meeting, duly noticed, assess violators fines of up to \$500 per violation for noncompliance. Each day of violation may be considered a separate offense. When determining the amount and duration of a fine, the Commission shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. In addition, the violator may be required to pay administrative costs. If the fine is not paid, it shall become a lien upon the property.

33.06 Criminal Penalty. Pursuant to § 76-2-211, MCA., a violation of this Regulation, a permit issued under this Regulation, any condition imposed through the authority of this

Regulation, or any variance granted through this Regulation shall constitute a misdemeanor. A violator may be imposed a fine up to a maximum of \$500 per violation, or imprisoned in the county jail for a term not to exceed six months, or both.

- 33.07 Injunction.** After exhaustion of administrative remedies, the County Attorney, in conjunction with the Zoning Enforcement Agent and/or Code Compliance Specialist, may bring an action in the name of the County of Gallatin in the District Court to enjoin any violations of this Regulation.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person/entity who commits, participates in, assists or maintains such violation may each be held accountable for a separate violation.

- 33.08 Remedies, Cumulative.** The remedies provided for herein shall be cumulative and not exclusive.

ARTICLE VI DEFINITIONS

Section 34: Definitions

34.01 Intent. For the purpose of these Regulations certain words and terms used herein are defined. All words used in these Regulations shall be first defined as provided herein, and, if not defined herein, shall be defined in the Gallatin County Growth Policy and, if not defined therein, shall have their customary dictionary definitions.

34.02 Rules of Interpretation. The following rules of interpretation apply to the definitions for the Gallatin County/Bozeman Area Zoning District. The Rules of Interpretation include:

1. the present tense includes the future tense;
2. all words in the plural number include the singular number unless the natural construction of the wording indicates otherwise;
3. the word *shall* is always mandatory;
4. the word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as individual or individuals;
5. the word *lot* includes the words *plot or parcel*;
6. the word *building* includes the word *structure*;
7. the words *map* or *zoning map* mean the zoning map(s) of the zoning jurisdiction of the Gallatin County/Bozeman Area Zoning District that delineate the area to be governed by these regulations; and
8. the word *used* as applied to any land or structures, shall be construed to include the words *intended, arranged, or designed to be used, or occupied*.

34.03 Definitions.

1. Access or Accessway. The place, mean or way by which pedestrians and vehicles shall have adequate and useable ingress and egress to property or use as required by these Regulations.
2. Accessory Building. A subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner as by a roof, such accessory building shall be counted as part of the principal building. Individual public utility installation aboveground are considered accessory buildings.
3. Accessory Use. A subordinate use of land which is customarily incidental to the principal use of the land.
4. Acre. A measure of land area containing 43,560 square feet.
5. Adult Business. An establishment which advertises, trades, exchanges, transfers, sells, presents, shows, offers or exhibits materials, activities, reproductions, likenesses, services and/or objects defined as obscene by Section 45-8-201(2), MCA. Adult business as defined in this section shall include, but need not be limited

to, adult bookstores, adult motion picture theaters, rap studios, massage parlors, exotic dance studios, nude art studios, nude photographic studios and nude body painting studios.

6. Agricultural Activity. The use of the land for grazing and cropping to produce food, feed, and fiber commodities. Examples may include: cultivation and tillage of the soil; dairying and animal husbandry; growing and harvesting of agricultural and horticultural commodities; and the raising of livestock, bees or poultry. Not including any agriculture industry or business such as game farms, fur farms, animal hospitals, commercial dog kennels, horse stables, riding arenas, animal feeding operations or similar uses.
7. Airfield, Personal Use. Any unsurfaced earth or turf area or facility of land which is privately owned and operated, and is designed, used or intended to be used for landing and taking off by private single-engine, fixed-wing aircraft, not exceeding two hundred horsepower, including not more than one support building for covered storage and small quantities of supplies. A personal use airfield as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner which is not directed toward business or commercial functions.
8. Alley. A permanent public thoroughfare providing a secondary means of access to abutting lands.
9. Alteration. Change or rearrangement of the structural parts of existing facilities, or enlargement by extending the sides or increasing height or depth, or moving from one location to another.
10. Animal Hospital. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Outside pens, kennels or runs are not permitted as part of an animal hospital operation. The short-term interior boarding is permitted.
11. Antenna. One or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc).
12. Apartment. A habitable room or suite of two or more habitable rooms meeting the requirements of the International Building Code, located in an apartment building or used for residential purposes in nonresidential districts, as specified. Efficiency units and studios qualify as an apartment.
13. Apartment Building. A building other than a hotel or motel containing five or more dwelling units.
14. Automobile Service Station. An establishment with the primary business function of the retail sale of gasoline for passenger car use with or without minor service and repair work incidental to the operation of passenger automobiles.
15. Automobile Repair Facility. General repair, rebuilding, or reconditioning of engines, motor vehicles, trailers, including body and frame work, welding, and major painting services.
16. Automobile Washing Establishment. A building which has its primary purpose as washing automobiles. Such facilities shall be considered incidental to automobile service stations if not more than one auto may be washed at one time and if the service station is clearly the principal use.

17. Bar (tavern, cocktail lounge). An establishment where alcoholic beverages are served on premises and where the total sales of alcohol exceeds the total sales of food.
18. Basement. A portion of a structure located partially underground and having more than half its floor-to-ceiling height below the average grade of the adjoining ground.
19. Bed and Breakfast Home. A single-family dwelling which remains owner-occupied at all times providing one or more guest rooms for compensation, and where food service is limited to breakfast which may be served to over-night guests only.
20. Board. The Gallatin County Planning Board, the appointed body responsible for making recommendations to the County Commission relative to these Regulations and the zoning jurisdiction of the Gallatin County/Bozeman Area Zoning District.
21. Berm. A mound of earth used to shield, screen, and buffer undesirable views and to separate incompatible land uses.
22. Board of Adjustment. A five-member board appointed by the County Commission to hear and decide variances and to hear administrative decision appeals within a zoning district created pursuant to Section 76-3-201, MCA.
23. Building. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes, recreational vehicles and mobile offices.
24. Building Area. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: That area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.
25. Building Envelope. The three-dimensional volume on a lot lying between the front, side and rear yard setback lines and between ground level and the maximum allowable building height, constitutes the area available for potential building construction.
26. Building Height. The vertical distance measured from grade as defined in this section to the highest point on the roof or parapet wall. Where a building utilizes multiple roof styles or pitches, the highest point of each type of roof or parapet wall shall be in conformance with applicable height regulations as established for the respective roof pitches in each zoning district. Where the vertical difference between grade as defined in this section is greater than two feet between opposite elevations of the building, the height of the building may be increased by one foot for every one foot in grade difference up to a maximum of six additional feet.
27. Building Line, Required Front. The line nearest to the front and across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.
28. Building Line, Required Rear. The line nearest to the rear and across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.
29. Building Line, Required Side. The line nearest to the side and extending between the required front building line and required rear building line establishing the minimum open space to be provided between the side line of a building and the side lot line.

30. Building, Principal. A building in which is conducted the main, or principal, use of the lot on which the building is situated.
31. Building, Public. A building, supported by government funds, to be used in an official capacity on behalf of the entire community.
32. Business. The engaging in of the purchase, sale, barter or exchange of goods, wares, merchandise or service; the maintenance or operation of offices or recreational or amusement enterprises.
33. Campground. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, recreational vehicles or other camping outfits.
34. Carport. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. The structure shall be considered as an accessory building when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.
35. Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
36. Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
37. Club, Private. A nonprofit association of persons who are bona fide members paying annual dues which owns, hires or leases a building, or a portion thereof-, the use of such premises being restricted to member's and their guests.
38. Cluster Development. A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open spaces and/or preservation of environmentally sensitive features.
39. Code Compliance Specialist. The duly authorized agent appointed by the County Commission (pursuant to Section 76-2-210(2), MCA), who in conjunction with the Zoning Enforcement Agent ensures compliance with the provisions of this Regulation.
40. Commission, Gallatin County. The elected Board of County Commissioners for Gallatin County, Montana and the governing body of Gallatin County/Bozeman Area Zoning District.
41. Community Residential Facility. A single residential structure having common kitchen facilities occupied by eight or fewer persons having developmental disability and living together for the purpose of residential training, observation and/or common support, in which are is provided on a twenty-four-hour per day basis. The limitation of eight or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed ten.
42. Conditional Use Permit. legal authorization to construct, develop or operate a conditional use as defined by these Regulations.
43. Condominium. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all owners

on a proportional, undivided basis. Condominiums may be residential, commercial or industrial in nature.

44. Conforming Use. Any use allowed by the regulations as a permitted use or conditional use.
45. Convenience Food Restaurant. An establishment whose principal business is the sale of foods, frozen desserts, or nonalcoholic beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises and whose design or principal method of operation includes: (a) foods, frozen desserts, or nonalcoholic beverages are usually served in edible containers or in paper, plastic or other disposable containers; and (b) the customer is not served food at his/her table by an employee but receives it at a counter, window or similar facility for carrying to another location for consumption either on or off the premises.
46. Convenience Use. Retail commercial uses which have relatively high traffic generation rates per one thousand square feet compared to other commercial uses. A use is designated as a convenience use if method of operation includes: (a) retail motor fuel is sold; (b) the primary business is the sale of food or drink for consumption, either on or off premises, over a counter, or from an outdoor service window or automobile service window. Of the food or drink sold, at least twenty percent (20%) is in disposable or carry-out containers; and (c) drive-in and drive-through restaurants.
47. Day Care Center. A place in which supplemental parental care is provided to thirteen or more children on a regular basis and which is licensed by the State of Montana, Department of Family Services.
48. Day Care Home, Family. A private residence in which supplemental parental care is provided to three to six children from separate families on a regular basis and which is registered by the State of Montana, Department of Family Services.
49. Day Care Home, Group. A private residence in which supplemental parental care is provided to seven to twelve children on a regular basis and which is registered by the State of Montana, Department of Family Services.
50. Development. Any man made change to improve or alter real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
51. Development Right. The right to construct a single-family dwelling unit on a parcel in accordance with applicable regulations.
52. Drive Access. That area between the curb of a street, or edge of the traveled portion of a street when no curb exists, and the right-of-way/property line over which the county will permit vehicular travel from the traveled portion of a street to an individual property, or off-street parking space(s).
53. Drive-in Business. Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. Such businesses include, but are not limited to, the following: drive-in theater, drive-in bank, freestanding automated teller machine, drive-in laundry or dry cleaning pickup station, drive-in restaurant, and any business offering take-home food services.

- 54. Dwelling. A building, or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings and group homes, but not including hotels, motels or tourist homes.
- 55. Dwelling, Single-family. A building used for residential occupancy by one family.
- 56. Dwelling, Two-family. A building, or portion thereof, used for occupancy by two families living independently of each other with the units completely separated by a common wall, floor and/or ceiling. Also referred to as "duplex."
- 57. Dwelling, Multiple (multi-family). A building, or portion thereof, used for occupancy by three or four families living independently of each other, with the units completely separated by a common wall, floor and/or ceiling.
- 58. Dwelling Unit. A dwelling, or portion of a dwelling, used by one household for residential purposes.
- 59. Eaves. The projecting lower edges of a roof overhanging the wall of a building.
- 60. Elevation. A fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors, and relationship of grade to floor level.
- 61. Essential Services (Type I). Water pumping stations; storm water drainage facilities (including collection lines, retention/detention ponds and drainage ways); sanitary sewer and storm sewer lift stations; local service telephone lines and cables; local service electrical distribution lines and cables; local service cable television lines; local service electronic data transmission lines and cables; water and sanitary sewer distribution and collection lines; public and amateur radio antennae and towers.
- 62. Essential Services (Type II). Transport gas, oil and coal pipelines (interstate and intrastate); electric substations; electrical transmission lines (interstate and intrastate); public supply facilities (electric and gas); public treatment facilities (water, sanitary sewer and storm sewer); public domestic water storage facilities; water fill stations for firefighting equipment; telephone satellite community dial offices; telephone exchanges and repeater stations, except those facilities which may be considered Large Scale Broadcast Facilities and Small Scale Broadcast Facilities; other accessory facilities, equipment and structures; police and fire stations.
- 63. Existing Use. The use of a lot or structure at the time of the adoption of a zoning regulation.
- 64. FAA. The Federal Aviation Administration.
- 65. Family. (1) A person living alone; (2) any number of people related by blood, marriage, adoption, guardianship or other authorized custodial relationship; (3) two unrelated people and any children related to either of them; (4) not more than four unrelated people living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities.
- 66. FCC. The Federal Communications Commission.
- 67. Fence. A barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.
- 68. Floor Area (Gross). The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

- 69. Foundation, Permanent. Support footings and bearing walls constructed of masonry or concrete, meeting the standards of the International Building Code (IBC).
- 70. Frontage. The side of the lot abutting on a street; the front lot line.
- 71. Fireworks Stand. A temporary structure on the premises for the seasonal sale of fireworks.
- 72. Garage, Private. A structure that is accessory to a residential structure and that is designed or primarily used for the storage of vehicles owned and operated by the residents thereof.
- 73. Glare. (1) The reflection of a harsh, bright light with an intensity great enough to reduce a viewer's ability to see; and (2) the physical effect resulting from luminances or insufficiently shielded light sources in the field of view.
- 74. Grade. The lowest point of elevation of the finished surface of the ground. "Finished surface of the ground" shall not include window wells, stairwells, or other similar features, but shall include features such as usable patio areas.
- 75. Greenhouse. A building or structure constructed chiefly of glass, glass-like translucent material, cloth, lath or similar materials which is devoted to the protection or cultivation of flowers or other plants.
- 76. Group Home. A single, residential structure having common kitchen facilities occupied by not more than eight persons living together for the purpose of training, observation, and/or common support on a twenty-four-hour per day basis. The limitation of eight or fewer persons does not include the operator of a residential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed ten.
- 77. Growth Policy, Gallatin County. The official document adopted by Gallatin County and used by the local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change in the unincorporated areas of Gallatin County. The required and optional elements of a growth policy are listed in Section 76-1-601, MCA.
- 78. Guest House. An attached or detached accessory building used to house guests of the occupants of the principal building, and which is never rented or offered for rent. Any guest house providing cooking facilities shall be considered a dwelling unit.
- 79. Health and Exercise Establishments. An establishment designed and equipped for the conduct of sports, exercise activities, and other customary and usual recreational activities, including tennis, racquetball, handball and squash courts, weight and aerobic exercise rooms, running facilities, swimming pools, and whirlpool and sauna facilities. Accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods, and restaurant services.
- 80. Home Occupation. Any use conducted entirely within a dwelling, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of these Regulations.
- 81. Hospital. An institution for the diagnosis, treatment, or other cure of human ailments and includes sanitarium or clinic, provided such institution is operated by, or treatment is given, under direct supervision of a physician licensed to practice by the State of Montana.

- 82. Hotel or Motel. A building or a group of buildings, in which lodging is provided and offered to transient guests for compensation; shall not include a boarding house, lodginghouse or roominghouse.
- 83. Hunting and Fishing Clubs. The use of structures and/or land for social, educational, and recreational purposes, to which membership is required for participation. Does not include granting individuals permission to hunt or fish on private property; does not include commercial outfitting operations; does not include shooting ranges.
- 84. Incidental. Any action or use of less importance, or secondary to, any other action or use.
- 85. Industrial. The manufacture, fabrication, processing, reduction, or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and includes wholesale trade, storage and warehousing, trucking and transportation terminals, and other similar uses and activities.
- 86. Junk Salvage Yard. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles and similar property which are used, owned or possessed for the purpose of wrecking or salvaging parts there from.
- 87. Large Scale Broadcast Facility. A facility, twenty feet (20') or greater in height from the base to the highest point including attachments, designed and constructed specifically to support one or more antennae and may include a monopole, self supporting (lattice) tower, guy-wire supported tower, and other similar structures and/or a facility broadcasting in the electromagnetic spectrum with 1,000 watts or greater Effective Radiated Power. When calculating the height of a facility, other structures designed for other uses such as office buildings or water towers shall not be included in the calculation.
- 88. Loading and Unloading Bays. The off-street area required for the receipt of or distribution, by vehicles, of material or merchandise.
- 89. Lodginghouse. A building with more than two but not more than ten guest rooms where lodging with or without meals is provided for compensation. Also referred to as a boardinghouse.
- 90. Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
- 91. Lot, Area. The total area within the lot lines of a lot, excluding any street rights-of-way.
- 92. Lot, Corner. A lot abutting upon two or more streets at their intersection.
- 93. Lot, Interior. A lot with frontage on only one street; not a corner lot.
- 94. Lot, Through. A lot that fronts upon two parallel streets or that fronts two streets that do not intersect at the boundaries of the lot. Also referred to as a double frontage lot.
- 95. Lot Coverage. A measurement of intensity of land use, expressed as a percentage of a lot's total area that is impervious (i.e., does not absorb water). This portion includes, but is not limited to, the areas covered by buildings, structures, driveways, roads, and sidewalks.

- 96. Lot Depth. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.
- 97. Lot Line, Front. In the case of an interior lot, a line separating the lot from the street. In the case of a corner lot, a line separating the narrowest street frontage of the lot from the street and in the case of a through lot, a line separating the lot from the street from which a drive access may be permitted by the county.
- 98. Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.
- 99. Lot Line, Side. Any lot line other than front or rear.
- 100. Lot Line, Zero. The location of a structure on a lot in such a manner that one or more of the structure's sides rests directly on a lot line.
- 101. Lot Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.
- 102. Manufactured Home. A factory-built, single-family structure that is under the authority of 42 USC Section 5401, the National Manufactured Home Construction and Safety Standards Act, built on a permanent chassis, and is used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. This definition specifically does not include modular housing or recreational vehicle.
- 102. Manufacturing. The creation of products either with machinery or by hand according to an organized plan and with the division of labor.
- 103. Medical Offices, Clinics and Centers. An establishment where patients are admitted for special study and treatment by licensed health care professionals.
- 104. Mining. The extraction of minerals, including solids, such as coal and ore; liquids, such as crude petroleum; and gases, such as natural gases. Including any operation that mines sand and gravel or mixes concrete or batches asphalt.
- 105. Mobile Home. A transportable, manufactured structure, suitable for year-round single-family household occupancy and having water, electrical and sewage connections similar to those of conventional dwellings. This definition applies to only units constructed prior to Federal Manufacturing Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare with the definition of manufactured home.
- 106. Mobile Home Park. Any plot of ground upon which two or more mobile homes, occupied or intended to be occupied for dwelling or sleeping purposes, are located.
- 107. Mobile Home Space. A plot of ground within a mobile home park designed for the accommodation of one mobile home.
- 108. Mobile Home Stand. That portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.
- 109. Mobile Office. A factory-assembled structure or structures exceeding eight feet (8') in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear

and designed to be used as an office without a permanent foundation, in compliance with all applicable state regulations, whether or not the running gear has been removed.

110. Modular Home. A dwelling unit meeting the standards of the International Building Code (IBC) which was mass produced in a factory, designed and constructed for transportation to a site for occupancy when connected to the required utilities and when permanently anchored to a permanent foundation, whether intended for a use as an independent, individual unit or in combination with other units to form a larger structure, and which does not have integral wheel, axles, or hitch.
111. New Construction. Development commenced on or after the effective date of this Regulation.
112. Non-Conforming Parcel. A parcel, the area, dimensions or location of which was lawful prior to the adoption, revision, or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
113. Non-Conforming Structure. A structure, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
114. Non-Conforming Use. A use or activity that was lawful prior to the adoption, revision or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.
115. Nursing Home. An extended or intermediate care facility licensed or approved to provide fulltime convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.
116. Nursery, Plant. Facilities for commercial development, growth and sale of plants and/or for the utilization of and storage of equipment for landscaping operation and wholesale and/or retail or commercial gardening supplies.
117. Offices. Buildings or portions of structures in which commercial activities take place but where goods are not produced, sold, or repaired. These include but are not limited to general and professional offices, governmental offices; insurance offices; real estate offices; taxicab offices (but not taxi stands); travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting and similar uses.
118. Open Sales (or rental) Lots. Any land used or occupied for the purpose of buying, selling or renting for use away from the premises, any goods, materials or merchandise, and for the exterior storing of same prior to sale or rental.
119. Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, or their guests of land adjoining or neighboring such open space.
120. Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

121. Open Space, Private. Common open space, the use of which is normally limited to the occupants of a single dwelling, structure, or property.
122. Open Space, Public. Open space owned by a public agency and maintained by it for the use and enjoyment of the general public.
123. Open Space, Useable. That space which is capable of being used by the public for recreation, relaxation and social purposes. Parking lots and perimeter landscaping are specifically excluded from this definition of useable open space.
124. Parapet. That portion of a wall which extends above the roof line.
125. Parcel. A contiguous lot or tract of land owned and recorded as a property of the same persons or controlled by a single entity.
126. Parcel of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office.
127. Park. Any public or private area of land, with or without structures, for the purpose of passive and active recreational uses.
128. Parking, Off-Street. A temporary storage for a motor vehicle in a space located off any public right-of-way with room to exit either side of vehicle, and with adequate maneuvering space and access to public roads.
129. Parking, On-Street. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.
130. Party Wall. Any wall of a building or structure which is common to two or more buildings, and which has a minimum of one-hour fire-resistant construction as defined and regulated by the latest adopted International Building Code (IBC).
131. Personal and Convenience Services. Businesses offering services such as barbershops, beauty shops, shoe repair, laundromats, laundry and dry cleaning pickup and delivery stations, and similar uses.
132. Persons. Any individual or group of individuals, corporations, partnerships, associations, or any other organized group of persons, including state and local governments and agencies thereof.
133. Planned Unit Development (PUD). A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which includes a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use.
134. Planning Department, Gallatin County. The department responsible for the community development planning for the unincorporated area of the county.
135. Property Owner. Any person, firm, corporation or other entity shown as being the legal owner of a tract, parcel, or lot in the records of the County Clerk and Recorder.
136. Recreational Vehicle (RV). A vehicular-type portable structure without a permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.
137. Recreational Vehicle Park. A plot of ground upon which two or more sites are located, established or maintained for occupancy by the general public as temporary living quarters for travel, recreation or vacation purposes.

138. Research Laboratory. An establishment or facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.
139. Restaurant. Any restaurant (except a drive-in restaurant or a convenience food restaurant as defined in this section), coffee shop, cafeteria, short-order cafe, luncheonette, sandwich stand, drugstore, and soda fountain serving food.
140. Retail. The rental or sale of tangible personal property for any purpose other than for resale.
141. Right-of-way. (1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil and gas pipeline, water line, sanitary storm water sewer, and other similar uses: (2) generally, the right of one to pass over the property of another.
142. Road. See definition of *Street*.
143. Roof. The outside top covering of a structure.
144. Sand and Gravel Mining Operation. An open land area where sand, gravel and rock fragment are mined or excavated for sale or off-site use. Does not include the mixing of concrete or the batching of asphalt.
145. School. a) any pre-primary, primary or grammar, public, parochial or private school, high school; b) preparatory school or academy, public or founded, or owner or conducted by or under the sponsorship of a religious or charitable organization; c) private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; d) junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or e) private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.
146. Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.
147. Setback. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.
148. Setback Line. That line that is required minimum distance from the street right-of-way or public access easement line or any other lot line that establishes the area within which structures must be placed.
149. Sewer System, Community. Any sanitary sewer system, whether treatment plant, septic tank or lagoon designed with a sewer collection system to be used by a legally constituted association of properly owners. The system may or may not be a public system.
150. Sign. Any device, fixture, placard, or structure that uses form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity or to communicate information of any kind to the public. Sign-related definitions can be found in Section 22.
151. Site Plan. The development plan for one or more lots on which shows the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of

ingress and egress; circulations; utility services; structures; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that may be required by these Regulations, in order that an informed decision can be made by the approving authority.

152. Site Vision Triangle. A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. Also know as a sight easement.
153. Small Scale Broadcast Facility. A facility, less than twenty feet (20') in height from the base to the highest point including attachments, designed and constructed specifically to support one or more antennae and may include a monopole, self supporting (lattice) tower, guy-wire supported tower, and other similar structures and/or a facility broadcasting in the electromagnetic spectrum with less than 1,000 watts Effective Radiated Power. When calculating the height of a facility other structures designed for other uses such as office buildings or water towers shall not be included in the calculation. This definition excludes private, receive only, antennae such as for the reception of television signals.
154. Stable, Commercial. A commercial stable where equine and similar animals are boarded and may be rented for trail rides, pack rides, etc. May include riding and training lessons, and sales of equestrian supplies. May include an arena where events are staged.
155. Stable, Private. Any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot, but shall not exceed six thousand (6,000) square feet in area.
156. Stealth or Camouflaged. Placement of a telecommunications facility in such a way that it may not be discerned as being separate from the principal use of a site. This may be accomplished through visual screening, use of color, or encasement of the facility within an existing structure such as a steeple. A stealth installation may also include the placement of a new structure to contain the facility so long as the new structure complies with the height, setback, and other requirements of the Zoning Regulation or is otherwise exempt from those requirements.
157. Street. A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.
158. Street, Arterial. A street or road, moving relatively large volumes of traffic in two or four lanes, having the primary function of moving through traffic and the secondary function of providing access to adjacent land.
159. Street, Collector. A street or road generally with two traffic lanes and two parking lanes serving the equally important functions of moving through traffic and providing access to adjacent land.
160. Street, Local. A street or road with two traffic lanes and one or two parking lanes having a primary function of providing access to adjacent property, and to discourage through traffic.
161. Street Frontage. Any property line separating a lot from a street; the front lot line.
162. Street, Public. A street or road for which the right-of-way has been dedicated to the public, or is otherwise publicly owned.

163. Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.
164. Structure, Nonconforming. Any structure which was legal prior to the effective date of the regulation codified in this section which fails to comply with the building location standards, and/or size requirements of the applicable zone of this title in which it is located.
165. Structural Alteration. Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof rafters.
166. Subdivision or Development Construction Yard. A temporary office and/or vehicular and material storage yard.
167. Swap Meet. Any permanent or temporary sales or lot where the sale or trade of goods, materials and merchandise takes place outside any permanent structure, from within temporary structures or from vehicles and where several sellers or traders may congregate for the purpose of selling or trading.
168. Swimming Pool. Either a portable or permanent water container used for recreational purposes which at its deepest point is over eighteen inches and has a volume in excess of one hundred fifty cubic feet of water.
169. Tower. A structure greater than ten feet in height designed and constructed specifically to support one or more antennae and may include a monopole, self supporting (lattice) tower, guy-wire supported tower, and other similar structures. A tower does not include other buildings or structures designed for other uses such as a tall office building or water tank.
170. Townhouse Cluster. A building consisting of three or more noncommunicating, attached one family units placed side by side and/or back to back, with no unit located over another, and having a common wall between each two adjacent dwelling units.
171. Transfer of Development Rights (TDR). The removal of the right to develop or build a residential dwelling unit from a designated sending area to land in a designated receiving area within a zoning district where such transfer is permitted.
172. Truck Service Station. An occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted for automobile ' service stations.
173. Truck Stop. A facility for the servicing of diesel powered trucks and tractor trailers. A truck stop shall mean any one or more of the following: a) four or more diesel fuel dispensers; b) two or more bays for truck washing; and c) facilities for diesel engine repair. Other uses present at the same facility such as convenience markets or restaurants shall not be determinative of whether or not the facility is a truck stop.
174. Truck Washing Establishment. A facility designed to primarily serve to semi-trailer and tractor travel as a place to have such vehicles cleaned.
175. Unit. A residential lot, a commercial lot, a condominium, a townhouse, an individual recreational vehicle parking site or a manufactured home lot.
176. Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied for any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

177. Use, Accessory. See definition of *accessory building or use*.
178. Use, Conditional. Either a public or private use as listed in this Regulation which, because of its unique characteristics, cannot be properly classified as a principal use or accessory use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted, with or without conditions, in addition to any condition specifically stated in this Regulation for any particular conditional use, including time limits, pursuant to the requirements of this Regulation.
179. Use, Nonconforming. An existing use of land or building which was legal prior to the effective date of the regulation codified in this Regulation but which fails to comply with the requirements set forth in this Regulation applicable to the zone in which such use is located.
180. Use, Permitted. A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations, and performance standards of such district. A permitted use may be a principal use, an accessory use, or a conditional use.
181. Use, Principal. A use or structure which determines the predominant or major use of the lot on which it is located. The principal use shall be that use which establishes the character of the property relative to surrounding or adjacent properties.
182. Use, Temporary. A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.
183. Variance. A provision which allows modification to a regulation or waiver of the building and development standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the variance is not contrary to the public's health, safety, and general welfare.
184. Veterinary Clinic. See definition of animal hospital.
185. Violation. The failure of a structure, subdivision, use of land, or other development to be fully compliant with the governing regulations.
186. Warehouse. An enclosed building designed and used primarily for the storage of goods and materials.
187. Warehouse, Residential Storage (mini-warehouse). A building or group of buildings in a controlled access and fenced or screened compound that contains relatively small storage spaces of varying sizes and/or spaces for recreational vehicles or boats, having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or family generally stored in residential accessory structures, when such building or group of buildings are not located on the lot of the residence.
188. Watercourse. Any stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which some or all of the water is naturally occurring, such as runoff and springs, and which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.
189. Wholesale Establishment. An establishment for the sale of goods and merchandise for resale instead of for direct consumption.

190. Wrecking Yard. A place, lot or area where the primary function is that of dismantling, storage, abandonment or sale of goods and materials as parts or scraps.
191. Yard. A space on the same lot with a principal building, which is open and unoccupied from the ground upward or from the ground downward other than by steps, walks, terraces, driveways, lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in this Regulation.
192. Yard, Corner Side. A yard on a corner lot, the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along the side lot line to a point intersecting the rear lot line, then along the rear lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.
193. Yard, Front. A yard extending across the full width of the lot between two side lot lines the depth of which is the least distance between the street right-of-way and the front building line.
194. Yard, Rear. A yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building and the depth of which is the least distance between the rear lot line and the parallel line.
195. Yard, Required. The minimum dimension of a front, side or rear yard as established by the use regulations for each district. See also definition of building line, required.
196. Yard, Side. A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.
197. Zone. A specifically delineated area or district within which uniform regulations, requirements, and standards govern the use, placement, spacing, and size of land and structures.
198. Zoning Enforcement Agent. The duly authorized agent appointed by the County Commission for the purpose of administering and enforcing these Regulations.
199. Zoning Map. The map or maps that are a part of these Regulations and delineate the boundaries of the zone districts.

ARTICLE VII APPENDIX

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